THE

TRYALS

AND

CONDEMNATION

OF

Robert Charnock,
Edward King, and
Thomas Keyes,

FOR THE

Horrid and Execrable Conſpiracy

TO

Aſſaſſinate His Sacred Majeſty, K. *WILLIAM* in order to a *French* Invaſion of this Kingdom,

Who upon full Evidence were found Guilty of

HIGH-TREASON,

AT THE

Seſſions-houſe in the *Old-Baily*, *March* 11. 169⅝.

Together with a true Copy of the Papers delivered by them to the Sheriffs of *London* and *Middleſex* at the time of their Execution.

Dublin, Re-printed by *Andrew Crook*, Printer to His Moſt Excellent Majeſty, on *Ormonde-Key*; And are to be ſold by *William Norman*, in *Dames-ſtreet*; *Eliphal Dobſon*, in *Caſtle-ſtreet*; *Patrick Campbel*, in *Skinner-Row*, and *Jacob Milner* in *Eſſex-ſtreet*, Book-ſellers. 1696.

Charnock (Robert) defendant.

I Do Appoint *Samuel Heyrick* and *Isaac Cleave* to Print the Tryals of *Robert Charnock*, *Edward King*, and *Thomas Keyes*; and that no other person presume to print the same.

J. Holt.

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Die Mercurii, 11° Martii, 1695. Anno Regni Regis GULIELMI Tertii, Octavo.

At the *Sessions-House* in the *Old-Baily*.

THIS Day the Tryals of *Robert Charnock*, *Edward King*, and *Thomas Keyes*, who were Indicted at *Hicks's-Hall* on this day sevenight upon a Special Commission of *Oyer* and *Terminer* for High Treason, in compassing the Death of the King by a barbarous Assassination, in order to further and assist an Invasion into this Kingdom from *France*, and subversion of the Government, were proceeded upon in manner following.

After opening of the Court, at which were present a great many of the Nobility, Members of Parliament, and other Persons of Quality, the Petty Jury returned by the Sheriff of *Middlesex* to Try the Prisoners, were all called over, being in number above Eight score, and consisting of Baronets, Knights, Esquires, and Gentlemen, and the Appearances of those who answered to the Call were Recorded; and Six of the Judges, *viz.* The Lord Chief Justice *Holt*, the Lord Chief Justice *Treby*, the Lord Chief Baron *Ward*, Mr Justice *Nevill*, Mr. Justice *Powell*, and Mr. Justice *Rokeby*, being upon the Bench, the Prisoners were called for to the Bar, and there Arraigned upon the said Indictments.

Clerk of Arraignments. *Robert Charnock*, hold up thy Hand (which he did.) *Edward King*, hold up thy Hand (which he did.) *Thomas Keyes*, hold up thy Hand (which he did) You stand Indicted in the County of *Middlesex* by the Names of *Robert Charnock*, late of the Parish of St. *Clement Danes* in the County of *Middlesex*, Gent. *Edward King* of the said Parish and County, Gent. and *Thomas Keyes* of the same Parish and County, Yeoman; for that you the Fear of God in your Hearts not having, nor the Duty of your Allegiance weighing, but being moved and seduced by the Instigation of the Devil as false Traytors against the most Serene, most Illustrious, most Clement, and most Excellent Prince, our Sovereign Lord *WILLIAM* the Third, by the Grace of GOD, of *England*, *Scotland*, *France* and *Ireland*, King, Defender of the Faith, *&c.* your Supreme, True, Lawful, and Undoubted Sovereign Lord, the cordial Love, and true and due Obedience, Fidelity and Allegiance which every Subject of our Lord the King that now is, towards him our said Lord the King should bear, and of Right ought to bear, withdrawing and utterly to extinguish, intending and contriving, and with all your Strength purposing, designing and compassing the Government of this Kingdom of *England* under him our said Sovereign Lord the King that now is of Right happily and duly Established, altogether to subvert, change and alter, as also our said Sovereign Lord the King to Death and final Destruction to put and bring, his Faithful Subjects and the Freemen of this Kingdom of *England* into intolerable and miserable slavery to *Lewis* the French King to subdue and subject the 15th day of *February*, in the seventh Year of the Reign of our said Sovereign Lord the King that now is, and divers other Days and Times, as well before as after, at the Parish aforesaid, in the County aforesaid Falsly, Maliciously, Devilishly and Traiterously, did Compass, Imagine, Contrive, Purpose, Design and Intend our said Sovereign Lord the King that now is to Slay, Kill and Murder, and a miserable Slaughter amongst the Faithful Subjects of our Lord the King throughout this

his Kingdom of *England* to make and cauſe, and the ſame moſt Abominable, Wicked, and Devilish Treaſons and Traiterous Contrivances, Intentions and Purpoſes of yours aforeſaid to fulfil, perfect and bring to effect, you the ſaid *Robert Charnock*, *Edward King*, and *Thomas Keyes*, and very many others, falſe Traitors to the Jurors unknown, afterwards, to wit, the ſaid 10th day of *February*, in the Year aboveſaid, at the Pariſh aforeſaid, in the County aforeſaid, and divers other Days and Times, as well before as after, there and elſewhere in the ſame County, falſly, maliciouſly, adviſedly, clandeſtinely, traiterouſly, and with Force and Arms, &c. did Meet, Propoſe, Treat, Conſult, Conſent and Agree our ſaid Sovereign Lord the King by lying in wait to Aſſaſſinate, Kill and Murder: And that Execrable, Horrid, and Deteſtable Aſſaſſination and Killing the ſooner to execute and perpetrate afterwards, to wit, the ſame Day, Year and Place laſt mentioned Traiterouſly did Treat, Propoſe and Conſult of the Ways, Manner and Means, and the Time and Place where, when, how, and in what manner our ſaid Sovereign Lord the King, ſo by lying in wait the more eaſily you ſhould Kill, and did conſent, agree and aſſent, that 40 Horſemen, or thereabouts, of you the ſaid *Robert Charnock*, *Edward King* and *Thomas Keys*, and the ſaid other Traitors unknown, and others by them to be Hired, Procured and Paid, with Guns, Carbines and Piſtols with Gun-Powder and Leaden Bullets charged, and with Swords and other Arms armed ſhould lie in Wait, and be in Ambuſh, our ſaid Sovereign Lord the King in his Coach being when he ſhould go abroad to ſet upon, and that a certain and competent number of thoſe Men ſo Armed, upon the Guards of our ſaid Sovereign Lord the King then and there attending upon him, and being with him, ſhould attack, and ſhould overcome and ſubdue them, whilſt others of the ſaid Men ſo Armed our ſaid Sovereign Lord the King ſhould Aſſaſſinate, Kill, Slay and Murder: And alſo that you the ſaid *Robert Charnock*, *Edward King* and *Thomas Keyes*, your Treaſons and Traiterous Intentions, Deſigns and Contrivances aforeſaid, to execute, perpetrate, fulfil, and fully to bring to Effect afterwards, to wit, the Day and Year laſt aboveſaid at the Pariſh aforeſaid divers Horſes, and very many Arms, Guns, Piſtols, Swords, and other Weapons, Ammunition, Warlike Matters, and Military Inſtruments, falſly, maliciouſly, ſecretly, and Traiterouſly did obtain and buy, collect and procure, and cauſe to be bought, obtained, collected and procured with that intention, the ſame in and about the Deteſtable, Horrid, and Execrable Aſſaſſination, Killing and Murdering of our ſaid Sovereign Lord the King, as aforeſaid, to be uſed, employed and beſtowed againſt the Duty of your Allegiance, and againſt the Peace of our Sovereign Lord the King that now is, his Crown and Dignity, as alſo againſt the Form of the Statutes in ſuch caſes made and provided.

How ſay you *Robert Charnock*, are you Guilty of the High Treaſon whereof you ſtand indicted or not Guilty?

Charnock. My Lord, I deſire, I may have a Copy of this Indictment; that I may adviſe with Councel upon it before I plead.

L. C. J. Holt. Pray Mr. *Charnock* will you ſpeak out, that we may hear what you ſay.

Char. My Lord, I find here is a very bad Crime that is laid to my charge; I deſire I may have a copy of the Indictment, to adviſe with Councel upon. And that I may have Councel to aſſiſt me in my Tryal, and to direct me, who am an Ignorant Man in theſe Matters, how to manage my ſelf according to the New Act made this Seſſions of Parliament, for regulating Tryals in Caſes of High Treaſon.

L. C. J. H. Have you not had Councel already to adviſe and direct you Mr. *Charnock*.

Char. My Lord, I had notice on *Wedneſday* that I ſhould be Tried this day, and it was *Saturday* laſt before I could get my Councel to come to me.

L.

L. C. J. H. And what did your Councel advise you? Did they tell you, you were to have a Copy of the Indictment, by vertue of the late Act of Parliament?

Char. My Lord, tho' the Act does not take force as to some things till the 25th. of this Month, yet the Equity of that Act, it being now reduced into a Law, is conceived to reach to Cases of the like nature before the 25th, and I desire the Act may be read.

L. C. J. H. You shall have it read if you will, but of what avail or benefit it will be to you I cannot tell; for you your self take notice that it is an Act of Parliament made this Session, and is not to take effect until the 25th of this Month. You now here stand Indicted before the 25th, and for a Treason committed before, and therefore you cannot claim, nor have any benefit nor advantage by this Act; but you are to be proceeded against according to the Law before, and the practice used in all proceedings against other persons in your Circumstances. And it is the known practice, and received for Law in all times before this New Act was made, That no Copy of an Indictment for High Treason should be granted, nor Councel assigned, or permitted to assist the prisoner in making his defence: True it is, a Copy of the Indictment has been often desired, but as true that it has as often been denied.

Char. My Lord, the Equity of this Act (it being now an Act of Parliament) is now in force, as much before the 25th of this Month as after.

L. C. J. H. Equity is nothing in these Cases; you are here tryed by the Law, and we are bound to go in all such Cases according to the Rules of Law, and are not to be guided by any Equitable Consideration, further then the Law it self does allow us.

Char. But, my Lord, the ground of that Act, which is the Reasonableness and Equity that all prisoners should be made capable of fairly defending themselves is now in force, I say, and I hope your Lordship and the Court will look upon it to be reasonable that I should have the Benefit of that Equity.

L. C. J. H. I tell you we are not here in a Court of Equity, but must proceed according to the Rules of Law; and the Law you now speak of does not yet commence.

Char. My Lord, I am informed, for I am very ignorant in these Matters my self, that there is nothing that I now desire which is contained in this Act, but what was Law before the making of the Act, tho' the Practice may have been otherwise.

L. C. J. H. Then I must tell you Mr. *Charnock*, you have been very much misinformed, for if all that is contained in this Act of Parliament that you mention was Common-Law before, there would have been no occasion for the making a New Act of Parliament.

Char. My Lord, I do not say that all things in this Act of Parliament were Law before, because there are several things in it that have not been Law before. But, My Lord, there are several things besides; and particularly those two things which I now desire, a Copy of the Indictment and Councel to assist me, were things that were agreeable to Law before; and I must take the liberty to Appeal to a Judge that I see upon the Bench, my Lord Chief Justice *Treby* as to his own Opinion, and desire he would please to declare whether formerly in a Conference between the Lords and the Commons he did not deliver his Opinion, that it was the Common Law, that a prisoner should have a Copy of his Indictment and Councel to assist him.

L. C. J. H. Here is my Lord Chief Justice *Treby*, you had best to apply your self to him for his Opinion.

L. C. J. Treby. Pray Sir, What is your Question you would ask me?

Char.

Char. My Lord, I am here for my Life, and I muſt take all the Advantages that I can, I am here Arraigned for a very grievous Offence, I deſire I may have a Copy of the Indictment, and Councel to aſſiſt me in my Defence. Here is an Act of Parliament out of the Equity of which I apprehend, I ought to have ſome advantage; for I am informed that what I deſire was Common-Law before the making of the Act; and particularly that your Lordſhips Opinion in a Conference between the two Houſes was, that the Priſoner ought to have thoſe advantages by the Common-Law.

L. C. J. Treby. Then Sir, I take your Queſtion to be this; You would have my Opinion to be declared, that this Act which was lately paſs'd for regulating Tryals in Caſes of High Treaſon, and all the particulars in that Act were Common-Law before.

Char. No, my Lord, I do not ſay that all the particulars in the Act were Common-Law before.

L. C. J. Treby. Then pray Sir, name your particulars, and I will endeavour to give you an Anſwer.

Char. My Lord, the particulars that I do aſk are theſe, Firſt that I may have a Copy of the Indictment, and Councel to adviſe me, becauſe it is a grievous Crime I ſtand here Accuſed of, and that I may have them to aſſiſt me at my Tryal in Court; This I do inſiſt upon from the Equity of the Act of Parliament, and your Lordſhip's Opinion at the Conference, that it was Common-Law before.

L. C. J. Treby. As to my Opinion about the having a Copy or Councel, I do not think or believe, that I ever ſaid that it was Common-Law.

Char. My Lord, I beg your Pardon; I was informed your Lordſhip had delivered ſuch an Opinion at a Conference between the Lords and Commons: But I deſire the Aſſiſtance of Councel, becauſe I my ſelf am ignorant of the Law; and particularly to this point, whether I am not entitled to the Equity of this Act of Parliament; for it now having paſt both Houſes of Parliament, and had the Royal Aſſent; it is a good Law; and tho it be to take its Commencement on the 25th of this Month, yet that which is the Law of all Laws, the Reaſon and Equity of it, is and always will be the ſame.

L. C. J. H. No, Mr. *Charnock*, that does not follow, that becauſe the Wiſdom of the Law makers has thought it to be Equitable *de futuro*, therefore it ſhould be Law now; which as I told you before, is the Rule that we are to go by. It is Equity and Juſtice, that the proceedings be according to this Act of Parliament, from and after the 25th of this Month; but it is not Juſtice that ſuch proceedings ſhould be till then, becauſe not according to Law.

Char. My Lord, the ground of all Laws is Equity, and certainly it cannot be Equity, that a Priſoner ſhould make his Defence againſt an Accuſation in writing, without having a Copy of it.

L. C. J. H. The time of the Court muſt not be ſpent in this manner, you have been already told, that by Law, you are not to have a Copy of the Indictment, but you are to plead without having any Copy; for there is no Law now in being that allows the giving of ſuch a Copy, and 'tis but a ſhort Queſtion that you are aſked in order to your Tryal; *viz.* Are you Guilty or not Guilty?

Char. My Lord, it is impoſſible for me to go to Tryal preſently, and without the Aſſiſtance of my Councel.

L. C. J. H. Why, had you not notice of your Tryal?

Char. My Lord, I confeſs I had notice upon *Wedneſday* laſt.

L. C. J. H. Had you not your Councel with you ſince that?

Char.

Char. Yes, My Lord, I had on *Saturday* last; but from that time I have not been able to prepare my self, as I think I ought, and I cannot conceive, but that I should have the Assistance of some Councel to direct me in my Tryal; for here is a very great Crime, and Hainous Charge against me in this Indictment, and I am very ignorant in all Law proceedings.

L. C. J. H. It is very reasonable that there should be convenient notice given to all persons in your circumstances; and truly this day sevenight is a very convenient notice, especially you having had, by your own confession and acknowledgment, Councel with you in the mean time.

Char. But my Lord, What is the advantage of having notice, if one have not the priviledge of Pen, Ink and Paper, and ones Councel and Friends coming to them, and privacy without the presence of the Jaylor.

L. C. J. H. What say you that are of the King's Councel, was there Councel allowed to come to them?

Mr. Att. General. My Lord, there was Order given that their own Councel that they desired should come to them.

Mr. Baker. My Lord, as soon as ever they desired Councel there was an Order for it, and left with the Jaylor, that he should permit the Councel to come to them and be with them in private.

L. C. J. H. Then tho you had not your Councel come to you till *Saturday*, it was your own fault, for you had an Order for Councel, as soon as you desired it: And seven from *Saturday*, is a reasonable time enough to prepare for answering the Question, whether Guilty or not Guilty.

Char. I suppose Mr. *Bale* is in Court, who gave notice on *Wednesday*, and I acknowledge he came upon the *Thursday*, and asked if I would have any body come to me; and he took then the names of the Councel that I desired might come to me, and told me he would carry them to Mr. Attorney General, and see what his opinion was of them; I suppose he did so; for upon *Friday* he came again, and brought me an Order for it; but when that Order was brought, the Councel that was desired was not to be had, or at least with very great difficulty, because it was the time of the Assizes, or very near it, and Councel were gone or going out of Town; so that we could not have the Advantage of the Order for Councel.

L. C. J. H. Look you Sir, We think you have had convenient notice, with liberty of consulting whom you had a mind to; if you have have neglected your opportunity of consulting them, you must blame your self, and no body else; we must go on according to Law.

Mr. Att. Gen. My Lord, they had the liberty of naming their own Councel, and the names were brought to me, and as soon as ever they were so brought, those that were named had leave to go to the *Prison to them*, and they had a further Order then the first, which was, that their Friends should be permitted to come to them; but that was not, as it was not convenient to be in private; but the other Order was, that the Councel shou'd speak with them in private, and not in the presence of the Jaylor.

L. C. J. H. Pray hear what Mr. Attorney says; that your Councel was ordered to be with you in private.

Char. But there was no Order, My Lord, for my Councel to be with me in the absence of the Jaylor, who is the only proper person for the consulting with, and for going about to Summon the Witnesses.

L. C. J. H. We think you have had convenient notice, and all the allowances that can be in such a Case. Ask him to plead.

Cl. of Ar. Robert Charnock, Are you Guilty of the High Treason whereof you stand Indicted, or not Guilty?

Char. My Lord, I hope you will give me some more time to get my Witnesses, that are now absent, several of them are Ten Miles out of Town; and therefore, I would beg your Lordship to give me some time.

L. C. J. H. Why, is Ten Miles such a distance, that you could not have your Witnesses between this day seven-night and this day? but besides, Mr. *Charnock*, what you now urge is out of time, you speak too soon to put off the Tryal, for there can be no Tryal till Issue joyned; and that cannot be till Plea pleaded.

Char. My Lord, I was never instructed in Querks of *Law*, nor bred up to the *Law*; and I hope your Lordships will take care that I be not hurt for want of Knowledge in the Forms of *Law*.

L. C. J. H. You may assure your self, Mr. *Charnock*, you shall not be hurt by your Ignorance in the *Law*: All the harm you will receive will be for having done contrary to the *Law*, and there is none of your Councel, if they have been faithful to you, but must tell you the same things that we tell you now.

Char. My Lord, if I am to have no Counsel, I must desire that the Court would be pleased to take the greater care of me: For as I have been informed, that was the Reason of the practice of denying Councel that the Court should be of Counsel for the Prisoner.

L. C. J. H. Mr. *Hadesly*, ask him whether he be Guilty or not Guilty?

Cl. of Ar. Robert Charnock, are you Guilty, or not Guilty?

Char. Not Guilty.

Cl. of Ar. Culprit, How will you be Try'd?

Char. By God and my Country.

Cl. of Ar. God send you a good Deliverance. *Edward King*, How say you; are you Guilty of the High Treason whereof you stand Indicted, or not Guilty?

King. My Lord, I beg the same favour that Mr. *Charnock* has done, that I may have some more time to prepare for my Tryal, and a Copy of the Indictment, and Councel assigned.

L. C. J. H. But you hear what has been said to Mr. *Charnock* upon those points, and the same Rule that was given in his Case, you must expect will be in your Case.

Cl of Ar. What say you, are you Guilty or not Guilty?

King. Not Guilty.

Cl. of Ar. Culprit, How will thou be Try'd?

King. By God and my Country.

Cl. of Ar. God send thee good Deliverance. *Thomas Keyes*, are you Guilty of the same High Treason or not Guilty.

Keyes. My Lord, I have had no Councel at all.

L. C. J. H. But you might have had if you would; you had an Order as well as the others.

Keyes. My Lord, I was a Servant to Captain *Porter*, I was not able to fee any Counsel.

L. C. J. H. But you can tell whether you are Guilty or not Guilty?

Cl. of Ar. Art thou Guilty, or not Guilty?

Keyes. Not Guilty

Cl. of Ar. Culprit, How wilt thou be try'd?

Keyes. By God and my Country.

Cl. of Ar. God send thee good deliverance,

Charnock,

Char. My Lord, I deſire I may have the favour of Pen, Ink and Paper, upon my Tryal.

L. C. J. H. Yes, yes, you ſhall have it; and if you have a mind to it you ſhall have the Indictment read to you in Latin.

Char. My Lord, my Ignorance in forms of Law made me not aſk that before, becauſe I did not know, whether I ſhould properly aſk it or not: And I do not know whether I ſhould aſk it properly now.

L. C. J. H. Yes, it is a very proper time to aſk it, and you ſhall have it if you have a mind to it.

Char. My Lord, I do really deſire it, if it be a proper time for me to have it.

L. C. J. Holt. Read the Indictment in Latin.

Char. And now, my Lord, I hope your Lordſhip will pleaſe that I ſhall have Pen, Ink, and Paper, that I may make the beſt Obſervations I can, ſince I cannot have a Copy.

Cl. of Ar. *Juratores pro Domino Rege ſuper Sacramentum ſuum præſentant quod Robertus Charnock, nuper de Parochia Sancti Clementis Dacorum, in Com. prædicto generoſus, Edwardus King nuper de Parochia Sancti Clementis Dacorum in Com. prædicto, & Thomas Keyes nuper de Parochia Sancti Clementis Dacorum in Com. prædicto, Yeoman, timorem Dei in cordibus ſuis non habentes nec debitum ligeanciæ ſuæ ponderantes ſed inſtigatione diabolica moti & ſeducti, ut falſi proditores contra Sereniſſimum, Illuſtriſſimum, Clemenſiſſimum & Excellentiſſimum Principem Dom' Gulielm' Tertium Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Regem, Fidei Defenſorem, &c. Supremum, verum, legitimum, legalem & indubitatum Dominum ſuum; cordialem dilectionem ac veram & debitam, obedientiam fidelitatem & ligeanciam quas quilibet ſubditus dicti Domini Regis nunc erga ipſum Dominum Regem gereret & de jure gerere tenetur ſubtrahentes & penitus extinguere intendentes ac machinantes, & totis ſuis viribus excogitantes, aſſignantes & conſpirantes, gubernationem hujus Regni Angliæ ſub ipſo Domino Rege nunc de jure feliciter, & debite ſtabilitam omnino ſubvertere mutare & alterare, nec non eundem Dominum Regem ad mortem & finalem deſtructionem ponere & adducere; ac ſubditos ſuos fideles, & liberos homines hujus Regni Angliæ, in ſervitutem intolerabilem & miſerrimam Lodovico Regi Gallico ſubjugare & mancipare, decimo die Februarii, Anno Regni dicti Domini Regis nunc ſeptimo, & diverſis aliis diebus & vicibus tam antea quam poſtea, apud Parochiam prædictam in Com. prædicto falſo malitioſe diabolice & proditorie compaſſaverunt imaginati & machinati fuerunt excogitaverunt deſignaverunt & intendebant dictum Dominum Regem ejus occidere interficere & murdrare.*——

Char. What word was that laſt, Sir?

Cl. of Ar. Murdrare.

Char. That is an old Word, I can't underſtand what it means.

L. C. J. It is a term of Art, the ſignification of it is to Murder; Go on Mr. *Hardeſty.*

Cl. of Ar. *Ac ſtragem miſerabilem inter fideles ſubditos ipſius Domini Regis per totum hoc Regnum Angliæ facere & cauſare & eaſdem nefandiſſimas, nequiſſimas & diabolicas proditiones & proditorias machinationes intentiones & propoſita ſua prædicta perimplend' perficiend' & ad effectum redigend' ipſi iidem Robertus Charnock, Edwardus King, & Thomas Keyes, & quam plurimi alii falſi proditores juratoribus prædictis ignoti, poſtea, ſcilicet eodem decimo die Februarii, anno ſupradicto, apud parochiam prædictam, in Com. prædicto, ac diverſis aliis diebus & vicibus tam antea quam poſtea, ibidem & alibi in eodem Com. falſo, malitioſe, adviſate, clandeſtine, proditorie & ut veri & ſub. &c. convenjebant, propoſuerunt, tractaverunt conſultaverunt conſenſaverunt & agreaverunt ad ipſum Dominum Regem ex inſidiis & dolo peremiend'* Anglice to Aſſaſſinate *interficiend' & murdrand' & ad execrabilem horrendum & deteſtabilem aſſaſſinationem anglice* Aſſaſſination *& interfectionem illius citius exequend' & perpetrand' poſtea ſcilicet eiſdem die anno & loco ultimo mentionatis prædicti proditorie tractaverunt, propoſuerunt, & conſultaverunt de viis, modis, & me-*

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alias ac tempore, & loco ubi, quando, qualiter, & quomodo Dictum Dominum Regem ſic ex inſidiis facilius interfacerent, & conſenſerunt agreaverunt & aſſenſerunt quod quadraginta homines equeſtres, aut circiter de ipſis Roberto Charnock, Edwardo King & Thoma Keyes & prædict' aliis proditoribus ignotis ac aliis per eos conducend' procurand' & impendend' cum bombardis, ſclopis & ſclopetis, pulvere Bombardico & globulis plumbeis oneratis, & cum gladiis enſibus & aliis armis armatis inſidiati forent & eſſent in ſubſeſſa, Anglice, in ambuſh, *ad eundem Dominum Regem in Rheda ſua, Anglice,* his Coach, *exiſtentem, quando foris iret, invadend' quodq; quidam & competens numerus de hominibus illis ſic armatis in ſatellites, Anglice,* the Guards, *ipſius Domini Regis eum tunc ibidem attendentes, & ſecum exiſtentes agreſſi forent, & eos devincerent, & expugnarent, dum alii eorundem hominum ſic armatorum ipſum Dominum Regem percuterent, interficerent, occiderent & murdrarent & etiam iidem Robertus Charnock, Edwardus King & Thomas Keyes ad proditiones & omnes proditorias intentiones, deſignationes & machinationes ſuas prædictas exequend' perpetrand' perimplend' & plenarie ad effectum rediegend' poſtea ſcilicet die & anno ultimo ſupra dictis apud Parochiam prædictam diverſos equos & quam plurima arma, bombardas, ſclopos, enſes & gladios, & alia armamenta, munitiones et res Bellicoſas et Inſtrumenta militaria falſo, malitioſe, ſecrete et proditorie obtinuerunt, emebant, colligerunt et procuraverunt, ac eml, obtineri, colligi, et procurari cauſaverunt, ea intentione ad illa in et circa deteſtabilem, horrendam et execrabilem Aſſaſſinationem, interfectionem et murdrum dicti Domini Regis ut præfertur utend', occupand' et impendend' contra ligeanciæ ſuæ debitum et contra pacem Dicti Dom. Regis nunc, Coronam et Dignitates ſuas, nec non contra formam Statut' in hujuſmodi Caſu edit' et proviſ.*

Char. My Lord, I deſire the Indictment may be read again, for there is ſo great a Noiſe in the Court, and that Gentleman has not the moſt perfect delivery; he is more uſed to Law *Latine* then to any other. But I beg, I may have it read again, that I may as perfectly as I can underſtand it.

The Indictment was read again in *Latine*.

L. C. J. H. Look ye, you that are the Priſoners, every one of you has the liberty to challenge 35 of thoſe that are returned to ſerve upon the Jury, that is to try you, without the wing any Cauſe; now if you will all joyn in the ſame Challenge, then we can Try you all together, as ye are altogether jointly in the Indictment; and ſave the time and trouble that will otherwiſe be unavoidable. But if you will not joyn in the ſame Challenge; but every Man Challenge for himſelf, as by Law he has liberty to do, we muſt be forced to try you ſingle, and therefore we would know of you, whether you deſign to joyn in your Challenge or not?

Char. My Lord, I hope the Court will give me leave to have my Sollicitor by me, during my Tryal, that I may be inſtructed in ſome meaſure how to manage my ſelf, and when it is proper for me to ſpeak and what.

L. C. J. H. No, we can Order no ſuch thing, you muſt ſpeak for your ſelf.

Char. My Lord, I am ignorant of the methods of Law, and may make a great many miſtakes and ſlips, and omit what may be material to be obſerved for my defence, and therefore ſhall the more need a friend or Sollicitor to be by me, to mind me of it.

L. C. J. H. No, we cannot direct any ſuch thing by Law. What ſay you as to your Challenges?

Char. As to the Jury, I had not a Copy of the Pannel till yeſterday, and I have been informed, that it is uſual to have a Copy of the Pannel Ten Days before the Tryal; they are Gentlemen that I have no knowledge of, nor can come at any Account of their Qualifications, ſo as to make proper Challenges.

L. C. J. H. You have the ſame priviledge that is ordinarily given to perſons in your condition.

Mr.

Mr. Att. Gen. There was Order given for a Copy of the Pannel to be delivered.

L. C. J. H. That was not of Right, but of Favour; and it is a practice that has of late obtained; but for what you talk of 10 Days, that never was in any Caſe, nor is it practicable; you have the ſame favour ſhewn you, that all other Priſoners have, and you can expect no more: But you do not anſwer the Queſtion, whether you will joyn in your Challenges or not?

Char. It is an indifferent thing to me, My Lord:

L. C. J. H. Do you agree to it Mr. *King*?

King, My Lord, I do not well underſtand it, I am ready to do any thing I ſhould.

L. C. J. H. What ſay you, *Keyes*?

Keyes, My Lord, I have had no Counceſlat all to adviſe me about any thing.

L. C. J. H I tell you what the Law is in ſuch Caſes; you may every Man of you challenge 35 peremptorily without Cauſe, but if you do not all agree in the ſame Challenges, ye cannot be tryed together by the ſame Jury: But the Court muſt ſeparate you, and try you every one ſingle.

Char. My Lord, I have got a Copy of the Pannel, if theſe Gentlemen that are by me do agree to joyn in the Challenge, I am very well content; it is indifferent to me.

L. C. J. H. Do you underſtand what is ſaid to you, Mr. *King* and Mr. *Keyes*? Every one of you may without ſhewing any cauſe, except againſt 35 of thoſe that are returned of the Jury, which are to try you, if you have no mind that thoſe ſhould be Sworn; but then if each of you do ſeverally Challenge 35, ye cannot be tried by the ſame Jury.

Char. I hope, my Lord, if I do challenge, as I do not know how I ſhall be enabled without knowing their Qualifications, the Court will put me in mind when I come near the number, that my challenging may not injure me; becauſe I am ignorant in the Law, and perhaps may ſlip in point of Number; and therefore, I would beg that your Lordſhips would allow me a Sollicitor to aſſiſt me, and put me in mind, that I may not run into errors.

L. C. J. H: You have been told over and over, that we cannot do that, the Court will take care that you be informed in time, that you do not exceed in challenging a greater number than you ought: What ſay you Mr. *King*? Do you agree that one ſhall make challenges for you all?

King, I do agree, that whatſoever Exception Mr. *Charnock* makes, I will abide by.

Char. My Lord, I cannot but think it hard, that I have not either Councel or Sollicitor, my Councel that I had are out of Town.

L. C. J. H: Why, was there no Councel but thoſe that are gone the Circuit?

Mr. Att. Gen: My Lord, he had Order firſt for one Councel and then for another, and whomſoever he named he had Order for.

L. C. J. H. If you will chuſe none but thoſe you cannot have, that is your own fault; You Mr. *Keyes*, will you joyn in the challenge?

Keyes, Yes with all my heart.

Cl: of Ar: Then you the Priſoners at the Bar, thoſe men that you ſhall hear called and perſonally appear, are to paſs between our Sovereign Lord the King, and you, upon trial of your ſeveral Lives and Deaths: If therefore you, or any of you, will challenge them, or any of them, your time is to ſpeak unto them as they come to the Book to be Sworn, and before they be Sworn.

Then thoſe of the Pannel that had appear'd were called, and the Priſoners challeng'd 33.

And the Names of thoſe that were Sworn are as follow.

Samuel

Samuel Harwer,	*Simon Smith,*
Jonas Morley,	*Thomas Dunck,*
Anthony Nurse,	*Richard Heath,*
Jasper Hodgsden,	*John Mills,*
William Farnborough,	*James Keckwitch,* and
William Bird.	*Christopher Redknap.*

Then Proclamation for Information, and the Witnesses appearing was made in usual form.

Cl. of Ar. Robert Charnock, hold up thy Hand, (which he did) *Edward King,* hold up thy Hand (which he did) *Thomas Keyes,* hold up thy Hand, (which he did) You Gentlemen of the Jury look upon the Prisoners, and hearken to their Cause; They stand Indicted by the Names of, &c. (*prout,* in the Indictment, *mutatis mutandis*) —— And against the form of the Statutes in that Case made and provided. Upon this Indictment they have been Arraigned, and thereunto have severally pleaded, Not Guilty, and for their Tryal have put themselves upon God and their Country, which Country you are; your Charge is to enquire of them, and every of them, Whether they be Guilty of the High Treason whereof they stand Indicted, in manner and form as they stand Indicted, or not Guilty; if you find them, or any of them Guilty, you are to enquire what Goods or Chattels, Lands or Tenements they had, at the time of the High Treason committed, or at any time since. If you find them, or any of them not Guilty; you are to enquire whether they fled for it; if you find that they, or any of them fled for it, you are to enquire of their Goods and Chattels, as if you had found them Guilty; if you find them not Guilty, nor that they did fly for it, you are to say so and no more; and hear your Evidence.

Mr. *Mountague,* May it please your Lordship, and you Gentlemen of this Jury; The Record that has been now read unto you, is an Indictment of High Treason, which charges the three Prisoners at the Bar, *Robert Charnock, Edward King,* and *Thomas Keyes* with a Traiterous Conspiracy, and Design to Subvert the Government of this Kingdom, and to Murder the King, and to bring the Subjects and Freemen of this Kingdom into Slavery, and Subjection to the French King: and to this end the Indictment sets forth; That upon the Tenth of *February* last, and divers other times, as well before as after, at the Parish of St. *Clements Danes,* in the County of *Middlesex* these three Prisoners at the Bar, with divers other Traitors unknown, did Consult and Agree to Assassinate the Person of Our Sovereign Lord the King, as he was riding in his Coach; and did likewise agree, that Forty Horsemen, of which they themselves were to be part of the Number, should lye in Ambush, and set upon the King, so being in his Coach, and upon the Guards that were to attend him: And it likewise Charges them with buying Horses and Arms, for the Execution of this Wicked and Villainous Intention; to this they have pleaded Not Guilty, we shall call our Witnesses and prove this matter upon them; and then we doubt not, but you Gentlemen will do Justice according to your Evidence.

Mr. Att Gen. My Lord, and you Gentlemen of the Jury, these Gentlemen at the Bar stand Indicted for a most Horrid and Barbarous Conspiracy, to Assassinate and Murder his Majesty's Royal Person; Gentlemen, this Assassination was to be seconded with an Invasion from *France,* where Troops lay ready at *Calais,* as soon as the dismal stroke was given to have Landed upon our Coasts; which if it had taken effect, we had not only suffered that most unspeakable Loss of the King, But it would have made an end of all our Liberties and Laws at once.

Gentlemen,

Gentlemen, This Offence in its Nature is so Horrid and Barbarous, that as it needs no aggravation, so it is incapable of having any, by any words that can be used; For the very naming of an Assassination of a King, carries such Horror and Detestation in its self, to all honest People, that it is impossible to aggravate it by any Expressions that can be used about it. But there is this peculiar Consideration to be had, by all *English* Men, who love their Country, that this designed Assassination upon the Person of His present Majesty, was to take away the Life of a King; who every body knows first ventured his own Life, to restore our Religion, Laws and Liberties, when they were just Expiring under the Oppression of Popery and Tyranny. And as he ventured his Life first to Restore 'em, so he has since upon all occasions, with the utmost hazard exposed His Royal Person to the most Eminent Dangers, for the preserving and maintaining our Religion, Laws and Liberties. against the Power and Violence of the Common Enemy; this Consideration to all true *English* Men must have a very great weight, and create the greatest Horror and Detestation, both of the Barbarous Design, and of all those who had any concern or hand in it, to attempt upon the Life, not only of a King, but of such a King.

Gentlemen, when you hear the Evidence that we shall offer to you, to prove this Bloody Conspiracy against these Prisoners; I doubt not but that there will be enough, to satisfie all true hearted *English* Subjects; and all People that have a desire to preserve our Constitution and Government, in what Danger we and our posterity were of being utterly ruined, and involved in a Common Destruction; I shall not detain you longer, with any Discourse about the Hainousness of this Offence, because every Man's own Thoughts cannot but suggest to him, how dismal the Consequences must have been, if so fatal a stroak had been given.

But Gentlemen, I must crave leave to take up so much of your time as to open how this Bloody, Execrable Conspiracy was first framed, and afterwards carried on by the Prisoners at the Bar, together with others, till it was very near putting in Execution, had not the infinite Mercy of God prevented it, by a timely discovery.

Gentlemen, this Conspiracy was first framed and consulted upon the last Year; there were several Consultations and Meetings, at several places about the Town, for this purpose; then and at those Consultations and Meetings, there were present Captain *Porter*, the Prisoners, and others, of whom you will have an account from Witnesses; and at that time they had an expectation of Commissions from the late King, to Authorize the Design; that not coming, they yet resolved to put it in Execution before the King went away; But because the *French* Troops were then not in a readiness to come over hither, to protect them, after the Execution of their Bloody Design, it was necessary for them to fly thither for shelter; and therefore they endeavoured to procure a Vessel to be ready to carry them over to *France*. But they could not get a Vessel time enough; and then the King's going over into *Flanders* quickly after, prevented the Execution of the design for that time, and so Matters rested till the King's return.

About Two or Three Months ago, Sir *George Barcley*, who is an Officer in the late King *James's* Guards in *France*; and some other Officers, with Sixteen or Eighteen Troopers in those Guards, privately came over from *France* to put this Design in Execution; and he did acquaint Mr. *Porter* and Mr. *Charnock* with the Design, knowing that they had been engaged in the Matter before, and so could not but expect that they would readily assist. This Design was treated and consulted of between 'em at several times, and in several places, at Captain *Porters*, and Mr. *Charnocks* Lodgings in

Norfolk-

Norfolk-ſtreet; at the *Globe* Tavern in *Hatton-Garden*, the *Nags-head* Tavern at St. *James's*, and ſeveral other places; ſeveral Conſultations and Meetings were had between the Priſoners at the Bar, and others, whom you will hear named at theſe Meetings; ſeveral ways and methods were propoſed, how it ſhould be beſt effected; it was propoſed by ſome, that it ſhould be done by Ambuſcade, that ſhould be laid near the King's Houſe at *Richmond*, ſuch a number on Foot were to lye in the Wood, there ready to Attack the King as he came by, and the reſt of the Conſpirators, at the ſame time to fall on the Guards; but this method was not ſo well approved of, as that which was afterwards propoſed and agreed to. That is, there were to be Three Parties of them, and the place was the Lane, lying between *Brainford* and *Turnam-Green*, at the end next to *Turnam-Green*, which the King uſed to paſs through, upon his return from *Richmond*; the Order and Method of the Deſign was this, Sir *George Barcley*, with Eight or Ten more was to attack the Coach, and by Firing into it, to have killed the King, and all in it, and the reſt were to attack the Guards, in two Parties, on each ſide of the Lane; whereof Mr. *Charnock* and *Porter* were to Command one, and Brigadeer *Rookwood* the other; in order to ſee how feizible this Deſign might be; the Priſoner *King*, Captain *Porter* and *Knightly*, were to go and Survey the Place; and the next Day after that Conſultation, they went to view the Ground, and did very carefully do it, both on this ſide the Water, and on the other ſide the Water; and they came back and met the reſt of the Company, at the *Nags-head* Tavern late at Night, to give an Account what they had done, in order to this Enterpriſe. It was agreed the number ſhould be about Forty; Sir *George Barcley* was to make up about Twenty, Mr. *Charnock* was to furniſh Eight, Captain *Porter* Seven, and ſo in other proportions, in all to make the number of Forty; which they thought were enough to effect and accompliſh the Deſign.

In order to make this matter the more ſure, They did appoint two to Lodge and wait at *Kenſington*, near the Guards; who were to give notice, when the King went abroad: And they had their ſeveral Perſons aſſigned to whom they ſhould give notice, who thereupon were to ſend orders to the ſeveral parties; one of which was *Chambers*, who was to give notice to the Priſoner at the Bar Mr. *Charnock*, and there was one *Durance*, who was to give notice to Sir *George Barcley*; and when ſuch notice was given, then they were to ſend Orders to the ſeveral perſons, who were to be concerned in this Bloody Buſineſs, to come at the time appointed, to be diſpoſed of into their ſeveral Poſts.

Gentlemen, in order to the furthering of this deſign, they did likewiſe ſend *Durance*, to go and view, and give them an Account of the moſt convenient Inns at *Brainford*, and *Turnam-Green*, and the places adjacent; which were leaſt lyable to obſervation, where the Men might be the moſt conveniently diſpoſed of, to lye ready againſt the time, when they were to Execute this Barbarous Aſſaſſination; accordingly he went, and took an Account of the ſeveral Inns within that compaſs, and they were to be Billetted by Two or Three in an Inn, ſo as not to be obſerved: Sir *George Barcley* and his party at *Turnam-Green*, and the reſt at *Brainford*.

Gentlemen, after they had thus laid the *Deſign*, *Saturday* the 15th of *February* was the firſt time pitched upon, for the putting it in Execution, if the King went abroad as he uſed to do, upon *Saturdays*, to *Richmond* to Hunt: and if they had notice from *Durance*, and *Chambers* that he was ſo to do, which notice they had, and every thing was prepared in order to have perpetrated this Villainous Deſign; but

but it happen'd that the King went not abroad that Day, of which they had notice about Noon, from *Chambers* to *Charnock*, and *Charnock* ſent word ſo to *Porter's* Lodgings, and then the Order for their getting together was countermanded, and the note, by which *Charnock* ſent word, was Subſcribed with the name of *Robinſon*; which you will hear is a Name he goes by, as well as by that of *Charnock*.

Thus they were diſapointed at that time, but they were not diſcouraged from purſuing this inhumane Enterpriſe; but reſolved to go on the next opportunity that ſhould be given. And to omit ſeveral things that intervened, which the Witneſſes will give you an Account of, on the *Friday* following they met again, to have every thing ready againſt the next Day, which was *Saturday* the 12th of *February*; when they expected the King would go abroad, as he uſually did on that Day of the Week, and that meeting was at the *Sun* Tavern in the *Strand*, and there were preſent Captain *Porter*, Sir *William Perkins*, Sir *George Barcley* and Mr. *Charnock*; and at that time there was a Diſcourſe amongſt them, about the diſappointment, which they had had the Week before, and ſome of them had a Jealouſie that a Diſcovery had been made of their Deſign: But then upon further Conſideration, They concluded if it had been ſo, they ſhould not have met there, but ſhould have been taken up; And therefore they concluded the King's ſtaying at home that day was but Accidental, and ſo reſolved to put their Conſpiracy in Execution the next Day.

While they were there ſeveral perſons, for whom Captain *Porter* had undertaken, that is, one *Cranborne*, *Kenrick*, and *Keyes*, the Priſoner at the Bar, came to *Porter*; theſe were carried into another Room, and Commanded all to be ready the next Day, when it was reſolved to put the Aſſaſſination in Execution: And then Captain *Porter* aſked *Kenrick* for *Sherborne*; who it ſeems had been undertaken for, but it was anſwered, That he aſked ſo many Queſtions about the Matter, that he did not think fit to truſt him.

The next Morning they met again at Captain *Porter's* Lodgings; and there met, as the Witneſſes will tell you, amongſt others, Mr. *Pendergraſſe*, Mr. *Keys*, and Mr. *King*; *King* brought a Meſſage to Captain *Porter* from Sir *George Barcley*, to know the Names of thoſe that were concerned, and upon that Meſſage Captain *Porter* writ down the Names of his Men, who were for his *Quota*, and ſent the *Liſt* by *Cranborne*, to Mr *Charnock*, to add his *Liſt* to it of the Men he was to have under him; *Cranborne* afterwards came back, and brought the *Liſt* that Captain *Porter* ſent with the additional *Liſt*, ſent by Mr. *Charnock*, Written with his own hand, and Subſcribed R. C. and *Cranborne* told them that *Chambers* had ſent word that the King would go out that Morning; at the hearing of which there was very much Joy amongſt them; for they hoped then their wicked Deſign would be put in Execution that Day; there was a Diſcourſe then likewiſe that *Porter* had a Piece which carried Six Bullets, and this it was ordered ſhould be put into the hands of *Pendergraſs* who was to be one of Sir *George Barcley's* Men to Attack and Fire into the King's Coach.

This was upon *Saturday*, the 12th of *February*, when they had News that the King was to go abroad, and every thing was to be put in execution at his return from *Richmond*. From Captain *Porter's* Lodgings they went to the *Blew Poſts* in *Spring-Garden*; but about 12 a Clock there came news from *Chambers*, one of the orderly men at *Kenſington*, that the King did not go abroad that day: This put them into a very great Confuſion, they then thought ſome diſcovery muſt needs be made becauſe of the diſappointment two *Saturdays* together; and *Keys*, the Priſoner at the Bar, came up and told them that the Guards were all come back in a foam, and the Kings Coaches were brought back to the *Meuſe*: and this confirmed them in their former jealouſie that the matter was diſcovered; upon which Captain *Porter*, Mr. *Pendergraſs* and Mr. *Keys* went together to lye hid ſome time;

time; but they ſaid they would ſend *Keys* to *Mr. Carnock*, to let him know where they might be heard of; andif the matter was not diſcovered they would ſtill go on to put it in execution: But they could not part without drinking ſome Trayterous Healths, which the Witneſſes will tell you of, to the Reſtoring of the late *King* and his Queen, and the Prince of *Wales*; and after all, one of the Company taking an Orange in his hand, began a health to the ſqueezing of the Rotten Orange; and in this manner it was drank by all them before they parted, tho they were under the apprehenſion at that time of being diſcovered already.

This is the beginning and progreſs of the ſeveral Conſultations that were had for the carrying on this Execrable Trayterous Conſpiracy. I have opened it ſhortly to you, but you will hear it much fuller in its ſeveral parts by the Witneſſes. By what I have opened, you cannot but obſerve, that it was very near coming to be executed, if there had not been a *Diſcovery* of it time enough, through the Providence of Almighty God, to prevent it. They had agreed, after their intended Aſſaſſination to keep together till they came near to the Town, and then they were to lye hid till the *French* Troops landed which they were aſſured of were ready upon the leaſt intimation of the ſucceſs of this Conſpiracy.

Gentlemen, Every body may gueſs at the diſmal conſequences that would have followed had this Bloody deſign taken effect; and I am ſure, as we and our poſterity could not have expected any thing leſs than the perpetual yoak and burden of ſlavery and Popery, if it had pleaſed God to permit this Conſpiracy to take effect; ſo I hope we ſhall always remember the merciful hand of providence that has detected and diſappointed it.

Gentlemen, I ſhall not detain you any longer; I have opened to you part of that which will more fully be made out by the *Witneſſes*; only I would obſerve, that the providence of God has not only made a diſcovery to prevent the execution of this abominable Villany, but hath brought this Conſpiracy ſo far to light, by ſuch unqueſtionable teſtimony, that no man can doubt of the reality of it, which I hope will raiſe in every honeſt mans mind an abhorrence and deteſtation of thoſe principles, upon which ſo villainous and barbarous a deſign was founded; and I think I may ſay, that after the Evidence you will hear this day, no one will pretend any doubt of the truth thereof, but either ſuch as are ſorry for the *Diſcovery*, or ſuch as knew too much of the Conſpiracy before. I ſhall trouble you no further, but call our Witneſſes who will give you a clear and full account of this Conſpiracy. Swear Captain *Porter*.

(*which was done.*)

Mr. *Soll Gen.* Captain *Porter I* would not lead you with any Queſtion, but pray will you give the *Court* and the Jury an account what you know concerning any *Conſpiracy* about Aſſaſſinating the King, and when it was to be done, and where, and how, and by whom; and particularly what relates as to that matter to the Priſoners at the Bar.

Charnock. My Lord, there are two things that *I* muſt beg of the *Court*, in relation to the Witneſſes that are to be produced, and the Evidence that is to be given againſt me at this time; And the firſt is, That before any of the Witneſſes given any Evidence againſt me, the reſt that are to be ſworn and produced may be kept out of Court till they that are called have ſeverally given their Evidence, that one may not hear what the other ſays? That *I* ſuppoſe is but reaſonable in a caſe of this nature, and what was never denyed, but always allowed, as *I* have been informed.

L. C. J. Holt. There is but one Witneſs ſworn, and *I* believe there are none of the reſt here.

Char.

Charn. Yes, my Lord, here is one Gentleman in the Court, whom I ſuppoſe to be an Evidence, and that is Mr. *De la Rue.*

L. C. J. Holt. If there be any others of the Witneſſes let them withdraw till they be called for; let there be ſome body to look after them and attend them. (*accordingly done.*)

L. C. J. *Holt.* Mr. *Charnock*, you have your deſire as to this matter, all the reſt of the Witneſſes are withdrawn.

Charn. My Lord, there is another thing that I have to beg of the Court, and that is in relation to the Evidence in general, That if there be any thing proved to be ſpoken in company, and talked of by way of common diſcourſe, or only in jollity in ordinary converſation, that may not be interpreted as a proof of any ſettled deſign or practice.

L. C. J. Holt. Look you, Mr. *Charnock*, who can tell what the Evidence will be until it be given; you will hear what is depoſed by the Witneſſes, and you have Pen and Ink, and may make ſuch obſervations as you think fit: When the Witneſſes are heard you will have all the advantage that can be allowed you, and you may then propoſe your objections to the matter of their Evidence; which, no doubt, will have their juſt weight with the Court: In the mean time, have you any Exception to this man's being a Witneſs? If you have no Exception againſt him, then he muſt give his Evidence; and after he has deliver'd himſelf, and the Kings Councel have done with him, you are at liberty to ask him what queſtions you think fit.

Mr. *Sol. Gen.* Captain *Porter*, I deſire you will acquaint the Court and the Jury what you know of any Conſpiracy to take away the Life of his Majeſty, when it began, in what manner it was carried on, how far it proceeded, how it came to be diſappointed, who were concerned in it, and what relates to the Priſoners at the Bar, as to their ſhare therein.

Capt. *Porter.* My Lord, I am unfortunately ingaged in this matter, and have made a frank diſcovery, to make the King all the attonement *I* can, for having been concerned in ſuch a deſign. Some weeks before this Conſpiracy for Aſſaſſinating the King was in hand, there came to my Lodging——

Mr. *Att. Gen.* Captain *Porter*, *I* would not interrupt you, but to put it into a method, and order of time, will you pleaſe to recollect your ſelf, and give the Court and the Jury an account of your knowledge about the firſt beginning of this Conſpiracy the laſt year; *I* would not lead you, and therefore *I* ask you the general, and no particular queſtion.

Charnock. My Lord, *I* ſuppoſe that any queſtion about what was done the laſt year is not at all to the purpoſe in this caſe, for there is nothing mentioned in the Indictment of the laſt year.

L. C. J. Holt. It is in the Indictment divers days and times, as well before as after.

Charnock. The Crime for which we are accuſed is laid to be the 10th day of *February* 1695.

L. C. J. Holt. The day is not material, but only a circumſtance, but in form ſome day before the Indictment preferred muſt be laid; and tho the day mentioned in the Indictment is the 10th of *February*, yet it is alſo ſaid, that the things contained in the Indictment, of which you are accuſed, were done likewiſe at divers days and times, as well before as after, and ſo the Indictment comprehends even what might be done the laſt year as well as this.

Charnock. I beg the favour of the Court in this matter, for ſure the 10th of *February* laſt can no way be ſupoſed to be in the laſt year.

L. C. J. Holt. I told you before, the day is not material, nor are the Witneſſes nor the Kings Councel tyed up either to the particular time or place mentioned in the Indictment, ſo it be within the County, and before the Indictment preferred. All that is to be regarded is, that no evidence be given or admitted of any other ſpecies of Treaſon, but what is contained in the Indictment; for a man may certainly be indicted for a Treaſon committed this year, and upon his Tryal Evidence may be given of the ſame Treaſon committed the year before.

Charnock. But then how can a man prepare for his Defence?

Mr. Att. Gen. The time is but a Circumſtance, it may certainly be proved at another day than what is laid in the Indictment, and yet very good proof; and ſo it is in all other caſes, as well Civil as Criminal.

Charnock. Mr. Attorney General has ſaid enough I think to confute himſelf; for if one year may be put in the Indictment, and another year brought in in the Evidence, how ſhall any man be able to apply himſelf to his Defence, whoſe thoughts only run upon the time laid in the Indictment. I hope neither the Court nor the Kings Councel will come ſo hard upon us, as to put our thoughts quite out of all order, that when we apprehend we are only to defend our ſelves againſt what is ſaid to be done this year, we muſt afreſh prepare our ſelves to anſwer what was done the laſt year.

L. C. J. Holt. It is always ſo; for form ſake, there is a particular time laid in the indictment, but the proof is not to be tyed up to that time; but if it be proved at any time before or after, ſo it be before the indictment preferred, it is well enough. And not without great reaſon, for the Treaſon conſiſting in imagining and compaſſing the Kings death, which may be manifeſted by divers Overt Acts, ſome before, ſome on, and others ſince, the tenth of *February*, yet they are Evidences of one Treaſon, which is the compaſſing the Kings Death.

Charn. Then we may be under an obligation to give an account of all the tranſactions of our lives, if that be the Rule.

L. C. J. Holt. No, not ſo neither, for that very Treaſon, aſſign'd in the Indictment muſt be proved, and therefore you are only to give an anſwer to that, and nothing elſe.

Charn. But, my Lord, it may give a great looſe, and much hinder our defence; for as it is now deſired that proof may be given of what was done laſt year, at the ſame rate, they (as well before and after) may ſignify ſeven years ago.

L. C. J. Holt. And ſo it may, if your Conſpiracy reacht ſo far, or did then begin, and was afterwards purſued, this is not any thing that is unuſual, but the Common Law is plain in it. Well what ſay you, Mr. *Porter*

Capt. *Porter* My Lord, I will give you an account, if your Lordſhip pleaſeth, of what was done this year; and if any queſtions afterwards be thought fit by the Kings Council to be now asked me about what paſſed before, I will anſwer them very readily.

Mr. Att. Gen. Well, then go on your own way, we will reſerve our ſelves till afterwards.

Capt. *Porter.* Some weeks before this deſign was on foot, for Aſſaſſinating the King. Sir *William Perkins*, when he was in Town, was at the ſame place where Mr. *Charnock* and I did lodge; it was about the latter end of *January*: He asked *Mr. Charnock* where he would be at night; and I told them, if they were not about private buſineſs I would meet

meet them. He told me, there were ſome friends come from *France*, and that ſomething was a doing, that would be for the ſervice of the King: I told them, if any thing of that nature was a doing, I would readily engage in it; and they told me I ſhould know it very ſoon. A little after I fell ſick of the Gout, and could not ſtir from my Chamber: But then Mr. *Charnock* did acquaint me that Sr. *George Barckley*, and thoſe that came from *France*, had brought a Commiſſion to raiſe and Levy War upon the perſon of King *William* and he aſked me how many I could bring to joyn with them, if the King landed; I deſired to conſider of it, and he told me Sr. *George Barckley* would come to him about it. Accordingly, he and *Holmes* came to the Houſe where we lodged, in *Norfolke Street*, and there they were in private with Mr. *Charnock*, and afterwards, becauſe I was lame, and could not ſtir, they came into my Room, and Sir. *George Barckley* told me he was glad to ſee me in good health, but ſorry to find me lame, but he hoped to ſee me abroad in a little time; and I told him, I hoped ſo too. They ſaid they were going then to ſome Company, & they hoped to ſee me afterwards. After that there were ſeveral Meetings that we had, particularly at the *Globe Tavern* in *Hatton Garden*, the *Naggs Head* at St. *James Street*, and the *Sun Taveren* in the *Strand*, and in all theſe places we did conſult together, which was the beſt way, and where was the beſt place to Aſſaſſinate the King, when he come from Hunting. Sir. *George Barckley* told us he had ſome mony to buy Horſes, but not much, he had as much as would furniſh about forty, Capt. *Charnock* ſaid, he would bring ſix or ſeven men, that ſhould come out of the Country, Sir *William Perkins* ſaid he would lend five Horſes, three to be mounted by Men of his own, the other two by ſuch as ſhould be provided. I promiſed to bring ſeven men with Horſes, and Sr. *George Barcley* ſaid that *Lowick* and others that came over with him from *France*, would engage in the Deſign, and make up the number. I deſired very much to ſee the Commiſſion that came from the late King, and aſked Mr. *Charnock* about it, he ſaid he never ſaw it, but Sr. *William Perkins* told me he had ſeen it, and that it was all writ with King *James* his own hand, and ſigned by himſelf. All this was agreed to, and then there were Conſultations in what Method it was to be done. Several Propoſals there were; one was to ſet upon him as he came from *Richmond* by the *Road*, others, when he was upon Horſeback at *Cue*. Sr. *George Barckley* was for having it done by Ambuſcade in the Park by *Richmond*, and therefore deſired me to go with Mr. *Knightley*, and view the ſeveral places and ground thereabouts, to find out which was the moſt convenient place. The day before we were to go, Capt. *King* come to me, and would know if we were to go about ſuch a matter, and profered to go with us. I told him I had never a Horſe, but he ſaid he would get one. We went that night to the *Swan* at *Knights Bridge*, and there we lay, and went the next day to view the ground, and came the next evening to the Company, to give an Account what we had done; and upon the Account that we gave, Sr. *George Barckley*'s mind was altered, and it was agreed to do it in the Lane coming from *Branford* to *Turnham Green*, and the particular manner was agreed on too. There was one *Rockwood* that was to command one party of Sr. *George Barckley*'s Men to attack the Guard; he told us, he had bought twenty Horſes which were to be employed in this Expedition; they were to be divided in three Parties, and Sr. *George Barckley* was to have four out of each of the other Party, and to ſeize upon the King's Coach, and to ſhoot into it, and kill the King, and all thoſe that were with him: And this was to be done on the 15*th*. of *Februarys*, which was a *Saturday*, and the King uſually went to *Richmond* on *Saturdays*. We had two Orderly Men (as they were called) who were to lie at *Kenſington*, to give Intelligence, when the King, and the Guards went out, the one was *Chambers*, and the other one *Durant*, a *Flemming*, *I* think, or *I* do not well know

what Country man he was; And *Durant* was to bring an Account when the Guard went out, and *Chambers* when the King went out, and when we had notice that the King was gone, we were to go by 3 or 4 in a Party to prevent ſuſpiſion, and we were to be diſperſed in the ſeveral *Inns* about *Brentford* and *Turnham Green*. Sir. *George Barckley* was to be at the King of *Bohemia's* head; and we ordered a Man to give notice to him when the King landed, and then he was to give notice to us, and ſo we were to form our ſelves into our ſeveral Bodies, to take our ſeveral Poſts as were agreed upon. *I* asked him what he thought to do when the Matter was over, how we ſhould diſpoſe of our ſelves? He told me, we need not fear any thing, but might go to Town and lie ſtill, and that there would a ſufficient number from abroad ready to aſſiſt us. That 4. or 5000 *French* were to divert in *Scotland*, and the King would be near the *French* Shore with a ſufficient army. On *Friday* before the 22th. when it was to have been executed, again we meet at the *Sun Tavern* in the *Strand*; and there diſcourſed for a matter of half an hour, about the former diſappointment, and ſeveral in the Company were afraid the deſign was diſcovered; but then *I* told them, if it had been ſo, ſure we ſhould have been taken up before now; upon which it was agreed, then let us reſolve upon it again to morrow, and ſo it was reſolved upon. Cap. *Charnock* ſaid, he could not ſtay, becauſe he ſhould want ſome Men that were come up out of the Country on purpoſe. I ſaid, I was afraid my horſes were ſick, and could not be uſed in the Service. And Sir *William Perkins* thereupon undertook to furniſh me, and told Mr. *Charnock* and me he had ſent to Mr. *Lewis* that belongs to the Earl of *Feverſham*, to procure ſome, he having, as he ſaid, promiſed ſo to do. I ſent the next morning to have a Note for two, by Mr. *Cranburne*, and he ſent me a Note back again by *Cranburne*, that he had ſent to Mr. *Lewis*, and Mr. *Lewis* ſaid he would help him to three horſes, with Sadles, Holſters and Piſtols, and deſired the liſt of my Men, which I ſent him, and he ſent it me back again with the liſt of his own, and then I ſhewed it to Mr. *De la Rue*, and we were preparing all things for the Execution of this Deſign, and preſently after news came, that the King did not go out that day neither; upon which I ſaid I would go out of Town, and I aſked Capt. *Pendergras* to go with me, and we ſent *Keyes* to bring Linnen unto us, but he did not come until the *Wedneſday*, and upon the *Thurſday* we were taken.

Mr. Att. Gen. Capt. *Porter*, you mention ſeveral Conſultations, at ſeveral times and places; who were preſent at any, and which of them? were any of the Priſoners at the Bar there, and which?

Capt. *Porter*. There was Mr. *Charnock*, and Mr. *King*, at all of them.

Mr. Att. Gen. What do you ſay about *Keyes*? What was he?

Capt. *Porter*. He was my Servant a year and a half.

Mr. Sol. Gen. Was he acquainted with the Aſſaſſination?

Capt. *Porter*. Yes he was, and was preſent at moſt of the Conſultations. He hired horſes for me to be imployed in the buſineſs. On the firſt *Saturday* he hired two, I gave him money for them, and did know upon what account they were hired.

Mr. *Att. Gen.* Was he preſent when news was brought of the diſappointment?

Capt. *Porter*. Yes, he was both times.

Mr. *Att. Gen.* You are ſure he was preſent then?

Capt. *Porter*. Yes, the ſecond time he ſaid, that he met the King's Guards that were come back all in a Foam, and that he had ſpoke to one of my Lord of *Oxford's* Regiment, and that ſomething was mutter'd upon which he fear'd a diſcovery.

Mr. *Att. Gen.* Did *Keyes* agree to be one of the men that ſhould be concerned and act in this buſineſs.

Capt.

Capt. *Porter*, Yes, he did.

Mr. Att. Gen. What Quality is he of? What is his Profeſſion?

Capt. *Porter.* He uſed formerly to help to dreſs me, and he was to look after my linnen and equipage.

Mr. Sol. Gen. Had he not been a Trumpeter? Was not that his Profeſſion?

Capt. *Porter.* He was a Trumpeter, and uſed ſometimes to entertain us with his Trumpet.

Mr. *Conyers.* You ſpeak of a meeting at the *Sun* Tavern in the *Strand* upon *Friday* the 21 of *February*, where it was reſolved to execute this attempt upon the next day.

Capt. *Porter.* Yes, there was ſuch a meeting.

Mr. *Conyers.* Was *Keyes* there at that time?

Capt. *Porter.* He was not in the Room where we were, but he was in another Room in the ſame houſe, where I went out to him, and there was he, *Cranbourn*, and *Kendrick*.

Mr. *Conyers.* Pray what did you go to them for?

Capt. *Porter.* I went to acquaint them what was reſolved upon; and I told them they were reſolved to do it the next day, to which they agreed, but that I thought my Horſes would not be ready, but I hoped I ſhould get ſome other.

Mr. *Conyers.* Pray what other Diſcourſe had you in that Company: With whom? and about what?

Capt. *Porter.* Mr. *Kenrick* came to me with his Arm in a ſtring; either he had broke his Arm, or pretended ſo to have done. I then aſked him for Mr. *Sherbourn*, whom he had mentioned before to me, as one that was likely to be concerned: He told me Mr. *Sherbourn* aſked a great many queſtions about the Deſign, which he did not think fit to anſwer; I thanked him for telling me ſo, and ſaid I would not ſend to him.

Mr. *Cooper.* Pray Captain *Porter* give me leave to aſk you one queſtion, can you remember what number of men *Charnock* was to provide for this enterprize?

Capt. *Porter.* He promiſed ſeven or eight men, ſome of which ſhould bring their Horſes out of the Country, others he would borrow or hire for them?

Mr. *Att. Gen.* Pray Sir, was there any body ſent to take an account of the Inns about the place where this Aſſaſſination was to have been executed?

Capt. *Porter.* Yes, Mr. *Durant* was, and he did bring us an account of the ſeveral Inns about *Branford* and *Turnam-Green*.

Mr. *Att. Gen.* As to the Liſt of men, which you ſay you ſent to *Charnock*, and he ſent you back with a Liſt of his men, pray can you tell whoſe hand that Liſt of his men was in.

Capt. *Porter.* I know Captain *Charnock*'s hand very well, and to the beſt of my knowledge it was his own hand, and ſubſcribed, *R. C.*

Mr. *Att. Gen.* Sir you have given an account of the meeting the 22*d* at your Lodging.

Char. I was not there he ſays.

Mr. *Att. Gen.* Firſt let me aſk you, how came it that it was not put in execution the 15*th* for that you did not tell us before.

Capt. *Porter.* I tell you Sir, it was becauſe the King did not go out that day, according as we had notice, that he intended to do: *Durant* wrote firſt word that the Guards were gone before, upon which I went for my men, and about noon I received a Note from Mr. *Charnock* that the King did not go out that day.

Mr. *Att. Gen.* Pray what name was ſubſcribed to that Note?

Capt. *Porter*, *R. Robinſon*, which was a name he uſed to go by ſometimes.

Mr.

Mr. *Att. Gen.* And pray in whoſe hand was that Note?

Capt. *Porter.* To the beſt of my knowledge it was Captain *Charnock's*, I know his hand very well.

Mr. *Att. Gen.* My Lord, if the Priſoners will aſk him any queſtions they may.

L. C. J. Will you aſk him any Queſtions?

Char. My Lord, in the firſt place I deſire the Judgment of the Court, whether he be a legal Evidence or no. I conceive he is not, and I hope your Lordſhips will think ſo to: For he makes himſelf a Criminal by his own confeſſion, and that of a very hainous Crime; and it is equal in my judgement (and as I have been adviſed, who I muſt ſtill ſay am ignorant in theſe matters) as if he had confeſt it upon an Indictment, and then the Law can take no notice of him as a good Witneſs. And if he were no legal Witneſs then, I take it by the ſame reaſon he is no legal Witneſs now: for the Crime is the ſame, and it is an acknowledgement in open Court.

L. C. J. Look you, Mr. *Charnock*, if it had been a Confeſſion upon an Indictment, it would have been a Conviction, which would have had quite another operation, but it not being upon an Indictment, it is no Conviction, and therefore he is a legal Witneſs, thô he does acknowledge himſelf to be guilty of the Crime.

Char. Then, my Lord, he is looked upon as no good Evidence, in my judgement, becauſe he is a Criminal.

L. C. J. He is a legal Evidence, thô he does confeſs himſelf guilty of the crime.

Char. He owns himſelf a partner in a bloody deſign, and to convict me he ſwears to take away my life, to ſave his own. I cannot imagine why he ſhould be accounted a legal Witneſs, that is a party by his own confeſſion in ſuch a matter.

L. C. J. Pray, who can tell better what was intended and done in ſuch a Conſpiracy than he that was a party in it?

Char. My Lord, he has forfeited his life by his own confeſſion, and now he would by ſwearing againſt me take away my life to ſave his own.

L. C. J. Whatſoever Objections you have againſt the credit of his Teſtimony you may make what uſe of them you can in the proper time; but for any thing that yet appears he is a legal Witneſs.

Charnock. My Lord, I know not how far he is a Legal Witneſs, therein I muſt be governed by the Judgment of the Court; but ſure it will take away from the Credibility of his Teſtimony, his own acknowledgement of his being guilty of ſuch a Crime. Tho he may be a Legal Witneſs, he cannot be a good one. And I hope the Gentlemen of the Jury will conſider of it, when a Man comes to take away other mens Lives to ſave his own, by accuſing them of Crimes which he acknowledgeth himſelf to be guilty of.

L. C. J. Look you, Mr. *Charnock*, for that matter, it is ſo in all Caſes of this nature, not only in Caſes of High Treaſon, but of Robberies and Burglaries, and the like, where the Parties concern'd are and always have been allow'd to be good Witneſſes againſt their Accomplices in thoſe Crimes. Will you ask him any queſtions, Mr. *Charnock*?

Charnock. My Lord, here is another thing, which, I apprehend, I have reaſon to object againſt the Teſtimony of this Witneſs; he does not only ſwear to ſave his own Life, and take away another's to deſerve the ſaving of his own; but there is in this Caſe ſwearing to get a Reward. for there is a Reward of 1000*l.* a piece promiſed by Proclamation for the Apprehenſion of this Man and others. And not only a Pardon,

but

but the 1000*l.* to any of those in the Proclamation who shall discover and take any of the prescribed persons. Now, where a Man stands accused by Proclamation, and his own Life is thereby concerned, and a Reward is propos'd for any of the Conspirators discovering and apprehending the others, it is a hard matter to admit any one that acknowledgeth himself guilty of such a Crime, to prove a Prisoner guilty of that Crime under those Circumstances. Besides, my Lord, I have known this Gentleman, and tho he may have had an Estate, yet since I have reason to suspect, and perhaps it may be very well known, that tho Fortune he had is lavished away; to make up that Damage, he may be tempted to undertake this way of swearing. So I think he cannot be a good Evidence, and I hope your Lordship will think so too, and that he is to receive no Credit or Countenance before an honest Jury, as I doubt not these Gentlemen are, that are to try us.

L. C. J. H. Mr. *Charnock*, do not mistake your self, he is to have no Reward by the Proclamation unless he had come in voluntarily, and apprehended one of the others; for only those that apprehend any of the Persons named in the Proclamation, are to receive any part of the Reward, not any of the Witnesses against any of them; the Reward is for the Apprehension, whether they be found guilty or not guilty.

Char. But still, my Lord, he cannot be a good Witness, for it looks as if he was a man that was willing to have become an Evidence, because we, whom he has accused, particularly my self, were permitted to be taken, and then in the mean while he seems to withdraw, only that he might be taken as a Colour. For my part, I know not, but that it may be a contrivance of his own, to be colourably taken up, because he is so willingly an Evidence, as the Jury may perceive he is.

L. C. J. H. It is certainly a very hard matter, if not impossible, to discover Crimes of this nature, if the Accomplices in those Crimes shall not be allowed to be good Witnesses against their Fellow-Conspirators.

Chernocke. My Lord I must submit to the Judgment of the Court that he is Legal Witness. But tho, I shall not press upon the Legallity, yet I must say he is not a good Witness for all the reasons that I have urged.

L. C. J. Holt. Nay, he is a very good Witness, if he be a Legal Witness; but the Credit of what he says, as in all other Cases, must be left to the Jury, who are Judges of the Matter of Fact, and the credibility of the Witnesses.

Charnock. My Lord, when persons will own themselves guilty of joyning in so barbarous a Crime as we stand indicted for and accused of sure, there will be little credit due to their Testimony.

L. C. J. Holt. His credit must be left to the Jury, who are the Judges of it; now if you will ask no questions, I must speak to the rest; Mr. *King* will you ask him any questions?

Chernocke I speak this only in general: but I have some Remarks that I have made upon the Evidence that has been given, out of which, when I have told you of them, questions may arise, which it may be fit for me to propose, and I shall desire your Lordship's leave accordingly.

L. C. Just. Look you Mr. *Charnock*, you shall be heard all and that you have to say, when your time comes for your Defence, and to make what Observations upon the Evidence you please. But the matter is now, whether you will think fit to cross-examine the Witnesses that are produced for the King, or to ask them any questions.

Charnock.

Chernock My Lord, I have taken ſome Notes of what has been ſaid, and I deſire I may make the beſt uſe of them that I can.

L. C. J. Holt. You may make what uſe you will of your Notes, and make what obſervation you will to make any queſtion you aſk intelligible.

Chernock. my Lord, Capt. *Porter* in his Evidence hath ſaid, That this Conſpiracy was in the latter end of *February*. Now I apprehend his Oath is not valuable upon this *Indictment* becauſe the Offence is laid the *tenth* of *February*, and ſo his Conſpiracy that he talks of, was after the time laid in the *Indictment*.

L. C. Juſt. Holt. I believe you miſtake him Sir

Mr. Att. General. If he pleaſes to ask him, *I* ſuppoſe he will find himſelf miſtaken.

Capt. Porter. My Lord, *I* ſay the latter end of *January*; if *I* ſaid *February I* miſtook.

L. C. J. Holt. And ſo it muſt be; for the two and twentieth of *February* was to have been the ſecond time for the Execution of the Deſign, and ſeveral of the Conſpirators were taken the next day.

Chernocke. My Lord, *I* deſire Capt. *Porter* may be asked where it was, and when, that *I* brought Sir *George Barckley* and Mr. *Holmes* into his company;

Capt. Porter. It was the beginning of *February*, at my Chamber in the ſame Houſe. where *Mr. Chernock* lodged, and *I* was then ſick of the Gout.

Chernock. My Lord, *I* declare it, *I* know nothing of it. Then he ſays we had ſeveral Meetings, particularly at three ſeveral Taverns? by what *I* can obſerve, there is no time at all, nor at any of thoſe three places that there was any ſort of Conſpiracy for the Aſſaſſinating of the King.

L. C. J. Holt. Yes, He ſays, that you met at thoſe places, where you did conſult about Aſſaſſinating of the King, and the Ways and Methods how it ſhould be carried on, and that you was at thoſe Conſults; for *Mr.* Attorney aſked him particularly, whether you that are the Priſoners were there? and he ſays, ay.

Char. He ſays, that we met at the *Naggs-head* Tavern in St. *James's ſtreet*, where it was agreed that he and *Knightly* ſhould go and view the Ground, to ſee which would be the moſt convenient place; and that they came the next night to give an account according to our deſire. Now, my Lord, I was there at Dinner, and Capt. *Porter* did come in at night; and if you do remember, Captain, you could not pull off your Boots well, and complained of the Gout, and was very peeviſh; and ſaid you had been at *Mortlack*, and had met with a Friend there; that is all that I know. There was Capt. *King* and Mr. *Knightly* indeed; who ſent for ſome other Cloathes, but it cannot be pretended that there was any Crime tranſacted at that time; for you cannot imagine that I would have to do in any ſuch matter amongſt Porters and Meſſengers that were to go on common Errand.

L. C. J. I will only put you in a right method; you may aſk what Queſtions you will now; but you are not to make your obſervations upon the Witneſſes to the Jury till the King's Evidence be given, for then your time will come for your defence.

Char. My Lord, It may be I may forget then what may be proper for me to inſiſt upon, If your Lordſhip would pleaſe to allow me a Sollicitor to put me in mind, I ſhould be the better able to manage my ſelf.

L. C. J. H. You may be helped by your Notes; but you have been told over and over we can allow no Sollicitor.

Char. My Lord, Capt. *Porter* ſays, I told him there was ſuch a Commiſſion brought by Sir *George Barckley* from King *James*; he ſays indeed, I told him I never ſaw it; and I do not know how I could, becauſe I do not believe there ever was any ſuch, and it is improbable there ſhould be any ſuch.

L. C. J. Holt,

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L. C. Juſt. Holt. Mr. *Chernock*, I would not hinder you from ſaying any thing that would be proper for your Defence, nor will interrupt you when your proper time comes.

Chernock. My Lord, What I ſay as to what Captain *Porter* has evidenced, and I would make Obſervations upon one part of the Evidence after another, as it is given.

L. C. Juſt. Holt. But that is not regular, according to the Courſe of Evidence, and will introduce a confuſion. You may ask any queſtions of the particular Witneſſes, as they are in order, if you will; but your obſervations, as to your own defence, you muſt defer till the Witneſſes are heard, that ſo the Evidence may be entire, and your defence entire, therefore if you will ask him any Queſtions, ſay ſo.

Chernock. No, My Lord.

L. C. Juſt. Holt. Then Mr. *King*, will you ask him any Queſtions?

King. Captain *Porter*, Did I mention any thing, or was there any diſcourſe when you and I, and Mr. *Knightly* as you ſay, went out to view the Ground about killing the King?

Capt. *Porter* The day before we went, we dined together, and it was at the *Nagg's-Head*, and he asked if I was to meet *Knightly*, and go and view the Grouud, in order to ſetting the Deſign, which was then talked of, and conſulted about; and Captain *King* deſired to go with us, and we lay at *Knight's-Bridge*; and when we were about it, we diſcourſed ſeveral times of the nature of the Place; and Captain *King* did not approve of the Place on this ſide the Water, but liked the Ambuſcade better which was to have been on the other ſide the Water.

L. C. Juſt. Holt. Will you ask him any more Queſtions?

King. No My Lord.

L. C. J. Holt. Well then, What ſays the other man *Keys*? Will he ask him any Queſtions?

Keys My Lord, I have had no Body to adviſe me, no Council; I was only a Servant to Captain *Porter*.

Mr Att Gen. If then they have done with him, before he goes, I deſire to ask him one Queſtion. What Diſcourſe, or Treaty, or Conſultation about this, or ſuch a like matter, there was the laſt Winter, and between whom?

Capt *Porter*. There were ſeveral Meetings and Conſultations the laſt Winter between Capt *Charnock*, Sir *William Perkins*, and my ſelf, about ſuch a thing; and we thought that the quickeſt way to bring in the King, and reſtore him to his Crown, was by knocking King *William* on the head; and there were ſeveral Meetings about the way of doing it.

Mr. Att. Gen. Who elſe were there at thoſe Meetings?

Capt. *Porter*. There were ſeveral others in Company.

Mr. Att. Gen. But the meaning of my Queſtion is, who of the Priſoners?

Capt. *Porter*. I cannot remember any but Captain *Charnock*.

Mr. Att. Gen. Pray will you acquaint us with the Reaſon why it was not done at that time?

Capt. *Porter* We wanted a Commiſſion from *France*, which we thought was a neceſſary Authority for us to act by.

Mr. Att Gen. You ſpeak of a Liſt that was brought you again from *Charnock*, with the addition of thoſe Names that were his men; pray at that time was there no diſcourſe about a particular Gun that was ſomebody's, and that one in the Company was to have, to be Employed in this Service?

Capt. *Porter*. My Lord, I ſaid, I had a Muſketoon that carried 6 or 8 Bullets, that Captain *Pendergras*, who was one of the four out of my *quota*, that was to go with Sir *George Barclay*, ſhould have if he pleaſed.

Mr. Att. Gen. Capt. *Porter*, I would not lead you, but were there any particular di-

rections given? and what touching the particular employment of that Gun?

Capt. *Porter*. I remember I told Capt. *Pendergras*, if the Coach made any great haſte to get away, he might eaſily hinder that by killing, or laming one of the Horſes with that Gun.

Mr. Att. Gen. Pray recollect your ſelf, Sir, was *King*, the Priſoner, at the Bar, preſent at that Diſcourſe?

Capt. *Porter*. Capt. *King* was then in my Room at *Maiden Lane*, where I then lay, being removed from my Lodgings at *Norfolk Street*.

King. Do you ſay that I heard any ſuch Diſcourſe?

Capt *Porter* I cannot ſay you heard it, but you was preſent then.

Mr Att. Gen. Was there not ſome diſcourſe about a defect of the Numbers that were appointed, and expected to join in this thing.

Capt. *Porter*. My Lord, I told you I wanted a man, and that was *Kenrick*, who had his Arm in a ſtring; and Mr. *De la Rue* brought one that I knew not, and ſome of the Company went to the *Blue Poſts* to tarry there whilſt I came to them, and Capt. *King* was preſent when the News was brought us of the Diſappointment, and then I reſolved to go out of Town.

Mr. *Att. Gen.* The next witneſs, my Lord, that we call, is Mr. *De la Rue*, and we deſire he may be ſworn. Which was done.

Mr. Sol. Gen. Mr. *De la Rue* we would deſire you to acquaint the Court and the Jury what you know of any Deſign or Conſpiracy to Aſſaſſinate the King, when it began, how it was carried on, and by whom, and by what methods.

Mr. *De la Rue*. My Lord, this Conſpiracy hath been carrying on a great while, for ſome years. And it originally came from Col. *Parker*, eſpecially as to my knowledge of it; and that was 5 or 6 years ago, at St. *Germains*, when I was there: He propoſed it to me, and ſaid he would propoſe it to my Lord *Melfort*, who was King *James's* Secretary in *France*. Two years after he came over into *England*: it was a little before the buſineſs of *La Hogue*, and he would have had me come over into *England* with him, upon which *I* applyed my ſelf to my Lord *Melfort*, to know whether I ſhould come over hither yea or no: My Lord *Melfort* adviſed me to ſtay there a while; for, ſaid he, you will find there is ſomething a doing which will pleaſe you. But nothing being done, after that I came to *England* and ſuffered a very tedious Confinement here. I became acquainted with Mr. *Charnock* and Captain *King* abroad; *I* have been with *Mr. Charnock*, Mr. *King*. Mr. *Porter*, Mr. *Goodman* and Collonel *Parker*, here in Town ſeveral times, and at ſeveral places. And now I come to what was a doing the laſt year. In the Months of *January*, *February*, and *March*, till the King's going to *Flanders*, there were ſeveral Conferences and Conſultations about this matter, between Sir *Wil. Perkins*, Cap *Porter*, and others; I cannot ſay that ever I was in company with *Goodman* at that time, when we talked of any thing of this nature. But Capt. *Charnock* carried me to Sir *W. Perkins*, whom I had never ſeen before, to the *Mitre Tavern* in St. *James's* Market and there I was asked if I would be concerned in the eaſing us from the yoke that then lay upon us. I asked which way it was to be done, for I could not underſtand what was meant, but the taking off the King, and therefore I asked which way it was to be done. Then they asked me whether I knew where Capt. *Stow* lived; and they imp'oyed me to go to his Lodgings, and appointed me to meet them at the *Star Tavern* in *White Fryars*. They were there before me, when I had met with the Captain, and brought him thither; but that they thought not a fit place to conſult in, and therefore they went to *Bromfield's* Coffee Houſe, and there they did talk ſomething of it; but they took one another aſide, and talked privately among themſelves

ſelves, which I took ſome obſervation and notice of; and upon enquiry I was told it was becauſe there was an Old Gentleman in the Company, whom they did not care to acquaint with any thing of the Matter, becauſe he was too Old to have any Hand in it, and they would acquaint none with their Reſolutions but thoſe that were to be Actors in the Deſign. My Lord, I was not often in their Company after that, but I heard from time to time how matters went on, and I heard from Capt. *Porter* particularly, that they had been at *Turnham-Green* and liked the place very well, and that the Deſign was to take the King off, or elſe to hurry him away to *Rumney-Marſh* alive and, carry him into *France*.

Charnock. Surely this is not any Evidence, becauſe Capt. *Porter* only ſpoke of it and it is by Hearſay, and we are not concerned what other People talk of.

Mr. *At. Gen.* Pray who was in the Room, when the Propoſals were made.

De la Rue. What Propoſals do you mean Sir?

Mr. *At. Gen.* At the Tavern in St. *James's Street*.

De la Rue. At the Coffee-houſe there was a little talk of it between themſelves; but they would not talk much, they ſaid, becauſe there was an Old Gentleman there, who was too old to engage, and they would have none but Actors, that I underſtood to be the Reaſon why they talk'd one with another ſo: But I taking notice of their Privacy, when ever I asked *Charnock* of it, he referred me to Capt. *Porter*. But withal he told me ſeveral times, that he believed it would come to nothing the deſign was to carry the King alive into *France*; if they could not take him alive, then to Aſſaſſinate him, and pretend it was done by a Random Shot. He told me alſo, they had ſent to King *James* for a Commiſſion to execute this matter, and to Authoriſe them to carry the King into *France*, if they could take him; and then if they could not, they agreed to excuſe themſelves; as I ſaid, by pretending that he was killed by a Random Shot. It ſhould ſeem (as I underſtood) the Commiſſion was delayed a long time; and then they Reſolved to execute the Deſign without a Commiſſion; and within a few days before the King was to go to *Flanders*, I was told all was ready. But then they wanted a Ship to carry him off when they had taken him; and there met at the *Roſe Tavern*, as I Remember Capt *Porter* and Sir *William Perkins*; but I cannot tell whether Mr. *Charnock* was there or not, I asked them if they had concluded upon the matter, they told me, it was concluded upon, and as I remember, they told me Capt. *Charnock*, or *Robinſon*, (for he went by both names) was to have a Recommendation to ſome Body at *Deal*; and there they were to Hire a Veſſel, and I was asked, whether I would go with him, I told them, I would. But then the King went a little after for *Flanders*; and they had no time to compleat the whole affair, and ſo the Buſineſs was put off, till the Kings Return this laſt Winter.

Mr. *At. Gen.* Well, what ſay you to any thing ſince?

De la Rue. This Year in the Months of *November*, & *December*, Mr. *King* the Priſoner at the Bar told me, that there would a Major General come over from *France*, and that there was a Man of Quality about the Town, that offered to Diſburſe two or three Thouſand Pounds, if King *James* would give order for it; and this was, as I ſuppoſe to buy Horſes to be engaged in this matter, and he would tell me more a while after. A month or two after, he told me he was out of Money about it, which could not be had; I was brought in by Capt. *Porter*, and they Communicated this to me, about the latter end of *January*, or the beginning of the Month of *February*, they told me there was a Major General come over from *France*, and there were

were a great many People come over beſides; and there would be ſomething ſpeedily put in Execution, which would be for the Kings Service.

L. C. J. *Holt.* Who told you this?

De la Rue. Capt. *King*, the next time I ſaw him, he told me he wanted a Saddle with Holſters, it was the 7th of *February*, or *Friday* Night, for he was to go out of Town with ſome Friends, about ſomething in Order to this affair, he deſired me to lend him one; but I had none I told him, but I would Write to Capt. *Porter* to procure one for him; and he told me he was to go with *Knightly*, *Durant* and others, to ſee whether the King went to *Richmond*, or to *Hounſlow*, becauſe they were told the King had altered this Journey from *Richmond* to *Hounſlow*. He afterwards told me, he went out with his Friends, and the *Sunday* Morning, he comes to me, and told me there was the Rareſt place for the Execution of the Deſign againſt the King, that was poſſible to be thought of, if they ſhould have ſtudied never ſo long, and deſired a convenient place they could not have had ſuch another, it was within a quarter of a Mile of the Kings Houſe at *Richmond*, in a Lane that leads to the Houſe, and ſo narrow, that the Officers and the Guard could go but very few a-breaſt, hardly broad enough for a breſt; and there was to be an Ambuſcade behind the *Park* Pales and the other ſide was the River; and, ſays he, we will have all the Pales ſawed ſo far, that when the King's Coach comes into the Place the Pales ſhall be broke down, and we will have a Parcel of Horſe ready that ſhall be ſure to do the work with the Guards; and when we fire, they ſhall take notice to make their Attack. *Durant* deſires to Command this Party; and they were to be dreſſed in Country-mens Habit, that they might the leſs be taken notice of: and he ſaid 10 or 12 Men on the other ſide would beat 100 of the Guards in that Conſternation, eſpecially we having the *Park* Pales before us to defend us. He asked me if I would be one of the Ambuſcade? I told him I had rather be one of thoſe on Horſe-back to ſecure the Retreat, and I would rather attack the Guards. It was late and ſo *King* and I went home; and the next day I went to ſee Captain *Porter* when he was ill of the Gout. This was *Sunday* the 9th of *February*, we did go to *Porter*, and he was in his Chamber, and two or three more, and they were talking of Indifferent things: he asked for Capt. *Charnock*, and they ſaid he was gone out; but he takes out Captain *Porter* into the Yard to talk with him by himſelf; and what he ſaid to him, I ſuppoſe, was to tell him what he had told me before: ſays Captain *Porter* to him, I have taken care of a Horſe for you; we will ride out on *Tueſday* next to ſee the Place. Mr. *Porter* and Mr *King*, and as I was told, Mr. *Knightly* went to *Knightsbridge* and lay there all night; and the next day they went out of Town to view the Place. I was at *Porter's* Lodging on the *Munday*, but I was told there by *Keys* and his Landlady, that he lay that Night at the *Swan* at *Knightsbridge*, and was to go out the next day. On the *Tueſday* Morning I was coming back from *Kenſington*, which was the 11th of *February*, and when I was coming along the Street I met with *Keys*, and asked him where he was going; ſays he, I am going to Sir *William Perkyns* with a Lerrying Trumpet; for it ſeems he was raiſing a Troop of Horſe, as *Porter* told me afterwards; and within a little time afterwards, I ſaw Captain *Porter* at the End of *Norfolk-ſtreet*, and he told me they would all be together at the *Naggs-head*, about 7 or 8 a Clock, I went and expected to be admitted, and asked if Captain *Porter* was there; they told me he was above, but there were ſeveral other Perſons with him; and there was a Coach at the door which had brought two *Scotch* Gentlemen, of which I thought Sir *George Barkley* was one,

whom

whom I heard to be in Town. I desire King goes abroad on *Saturday* [illegible] he was busie above in Company, and could not be done [illegible] were not willing that I should come there amongst them, which I took very ill. Captain *King* came out to me, and was talking with me at the door, and Captain *Charnock* comes with another to the Door in a Coach; I saw him, but when, I suppose, he perceived me, he pulls himself back into the Coach, as if he had no mind to be seen; but finding he could not avoid it, he comes out, and asks me if I would not go up stairs into the Company, I told him no, I hear they are busie, and because *I* was not invited up at first, I would not trouble them. I was then thinking of going to my Lord *Shrewsbury's* Office immediately to get some Messengers immediately to apprehend them; but then I thought I had not enough to discover their Intentions, and make it out against them, but *I* should have one time or another. *I* did not see Captain *King* till *Saturday* afterwards at Twelve a Clock, and *I* was then at *Charnock's* Lodging to see whether he was gone out, that *I* might be able to give the King the better Account; they told me he was at the *Blue-Posts* in *Spring-Garden*: *I* would not go and Dine there, but went home, and afterwards went thither; and *King* told me, the King did not go out that Day; *I* told him that *I* heard so, and would come and see them after Dinner. At this Meeting at *Spring-Garden I* saw *Keys* was one, and *Kenrick*, and *Sherbourn*, and *Bryerly*, and two that *I* did not know. This was *Saturday* the 15th, on *Sunday* the 16th *I* met Mr. *King* at *Saint James's Street*, and we went thence to the *Dog-Tavern*, and there we supp'd together, and he told me Sir *George Barkley* had brought over sixteen of the Guards and two Officers, and a Brigadier, and a Sub-Brigadier; and he told me the Day before, that he knew some of them, and was going to meet them; for they were *en Cachet*, as he called it in *French*, and did not stir abroad without Leave, and were, Subsisted at the Rate of 4 s. a Day, as the Guards were here. He told me, he had been lately with them a Drinking, *I* asked him wither they went, he told me to the *Bear Tavern* in the *Strand*, and he told me, Mr. *Charnock* and Captain *Porter* had several Conferences with them, to contrive how to take off his Majesty, to Murder and to Assassinate him And he told me ——

Charnock. My Lord, *I* desire he may be askt, whether he was at the *Bear Tavern* with these Men.

L. Ch. J. *Holt*. What he says about this matter, is what *King* told him.

Charnock. That is not Evidence, My Lord.

L. Ch. J. That is True, not to affect you, but only Mr. *King*.

De la Rue. Captain *King* told me besides, that Mr. *Charnock* did not argue like a Souldier, and Reflected upon him for it; for he said, he seemed to desire to have his Post in as little danger as was possible. And for Mr. *Porter*, he did not approve of him, for he told me he had as much Fat in his Brains, as he had in his Body. *I* remember those words he said? and that what he and *Durance* had proposed, was Rejected that was about the Ambuscade; for it was said, that after all their Consideration, Sir *George Barkley* was not sure of Horse enough to carry them off afterwards, wherefore they Resolved to Assassinate his Majesty in the Lane coming from *Brandford* to *Turnham-Green*; and Sir *George Barcley* was to Command Eight Persons to Assault the King, and those that were in the Coach; and Mr Charnock was to attack the Guards in the Rear; and one Rockwood with a Party that came from *France*, and Capt. *Porter*, in two Wings, were to attack the two sides of the Guards. I remember on *Sunday* Night I asked

 him

were a great many People come over beſides; and there would be ſomething ſpeedily put in Execution, which would be for the Kings Service.

L. C. J. *Holt.* Who told you this?

De la Rue. Capt. *King*, the next time I ſaw him, he told me he wanted a Saddle with Holſters, it was the 7th of *February*, or *Friday* Night, for he was to go out of Town with ſome Friends, about ſomething in Order to this affair, he deſired me to lend him one; but I had none I told him, but I would Write to Capt. *Porter* to procure one for him; and he told me he was to go with *Knightly*, *Durant* and others, to ſee whether the King went to *Richmond*, or to *Hounſlow*, becauſe they were told the King had altered this Journey from *Richmond* to *Hounſlow*. He afterwards told me, he went out with his Friends, and the *Sunday* Morning, he comes to me, and told me there was the Rareſt place for the Execution of the Deſign againſt the King, that was poſſible to be thought of, if they ſhould have ſtudied never ſo long, and deſired a convenient place, they could not have had ſuch another, it was within a quarter of a Mile of the Kings Houſe at *Richmond*, in a Lane that leads to the Houſe, and ſo narrow, that the Officers and the Guard could go but very few a-breaſt, hardly broad enough for a breſt; and there was to be an Ambuſcade behind the *Park* Pales and the other ſide was the River; and, ſays he, we will have all the Pales ſawed ſo far, that when the King's Coach comes into the Place the Pales ſhall be broke down, and we will have a Parcel of Horſe ready that ſhall be ſure to do the work with the Guards; and when we fire, they ſhall take notice to make their Attack. *Durant* deſires to Command this Party; and they were to be dreſſed in Country-mens Habit, that they might the leſs be taken notice of: and he ſaid 10 or 12 Men on the other ſide would beat 100 of the Guards in that Conſternation, eſpecially we having the *Park* Pales before us to defend us. He asked me if I would be one of the Ambuſcade? I told him I had rather be one of thoſe on Horſe-back to ſecure the Retreat, and I would rather attack the Guards. It was late and ſo *King* and I went home; and the next day I went to ſee Captain *Porter* when he was ill of the Gout. This was *Sunday* the 9th of *February*, we did go to *Porter*, and he was in his Chamber, and two or three more, and they were talking of Indifferent things: he asked for Capt. *Charnock*, and they ſaid he was gone out; but he takes out Captain *Porter* into the Yard to talk with him by himſelf; and what he ſaid to him, I ſuppoſe, was to tell him what he had told me before: ſays Captain *Porter* to him, I have taken care of a Horſe for you; we will ride out on *Tueſday* next to ſee the Place. Mr. *Porter* and Mr *King*, and as I was told, Mr. *Knightly* went to *Knightsbridge* and lay there all night; and the next day they went out of Town to view the Place. I was at *Porter's* Lodging on the *Munday*, but I was told there by *Keys* and his Landlady, that he lay that Night at the *Swan* at *Knightsbridge*, and was to go out the next day. On the *Tueſday* Morning I was coming back from *Kenſington*, which was the 11th of *February*, and when I was coming along the Street I met with *Keys*, and asked him where he was going; ſays he, I am going to Sir *William Perkyns* with a Lerrying Trumpet; for it ſeems he was raiſing a Troop of Horſe, as *Porter* told me afterwards; and within a little time afterwards, I ſaw Captain *Porter* at the End of *Norfolk-ſtreet*, and he told me they would all be together at the *Naggs-head*, about 7 or 8 a Clock, I went and expected to be admitted, and asked if Captain *Porter* was there; they told me he was above, but there were ſeveral other Perſons with him; and there was a Coach at the door which had brought two *Scotch* Gentlemen, of which I thought Sir *George Barkley* was one, whom

whom I heard to be in Town. I desi[illegible] he was busie above in Company, and could [illegible] were not willing that I should come there amongst them, which I took very ill. Captain *King* came out to me, and was talking with me at the door, and Captain *Charnock* comes with another to the Door in a Coach; I saw him, but when, I suppose, he perceived me, he pulls himself back into the Coach, as if he had no mind to be seen; but finding he could not avoid it, he comes out, and asks me if I would not go up stairs into the Company, I told him no, I hear they are busie, and because *I* was not invited up at first, I would not trouble them. I was then thinking of going to my Lord *Shrewsbury's* Office immediately to get some Messengers immediately to apprehend them; but then I thought I had not enough to discover their Intentions, and make it out against them, but *I* should have one time or another. *I* did not see Captain *King* till *Saturday* afterwards at Twelve a Clock, and *I* was then at *Charnock's* Lodging to see whether he was gone out, that *I* might be able to give the King the better Account; they told me he was at the *Blue-Posts* in *Spring-Garden*: *I* would not go and Dine there, but went home, and afterwards went thither; and *King* told me, the King did not go out that Day; *I* told him that *I* heard so, and would come and see them after Dinner. At this Meeting at *Spring-Garden* *I* saw *Keys* was one, and *Kenrick*, and *Sherbourn*, and *Bryerly*, and two that *I* did not know. This was *Saturday* the 15th, on *Sunday* the 16th *I* met Mr. *King* at *Saint James's Street*, and we went thence to the *Dog-Tavern*, and there we supp'd together, and he told me Sir *George Barkley* had brought over sixteen of the Guards and two Officers, and a Brigadier, and a Sub-Brigadier; and he told me the Day before, that he knew some of them, and was going to meet them; for they were *en Cachet*, as he called it in *French*, and did not stir abroad without Leave, and were, Subsisted at the Rate of 4 s. a Day, as the Guards were here. He told me, he had been lately with them a Drinking, *I* asked him wither they went, he told me to the *Bear Tavern* in the *Strand*, and he told me, Mr. *Charnock* and Captain *Porter* had several Conferences with them, to contrive how to take off his Majesty, to Murder and to Assassinate him And he told me ——

Charnock. My Lord, *I* desire he may be askt, whether he was at the *Bear Tavern* with these Men.

L. Ch. J. *Holt*. What he says about this matter, is what *King* told him.

Charnock. That is not Evidence, My Lord.

L. Ch. J. That is True, not to affect you, but only Mr. *King*.

De la Rue. Captain *King* told me besides, that Mr. *Charnock* did not argue like a Souldier, and Reflected upon him for it; for he said, he seemed to desire to have his Post in as little danger as was possible. And for Mr. *Porter*, he did not approve of him, for he told me he had as much Fat in his Brains, as he had in his Body. *I* remember those words he said? and that what he and *Durance* had proposed, was Rejected that was about the Ambuscade; for it was said, that after all their Consideration, Sir *George Barkley* was not sure of Horse enough to carry them off afterwards, wherefore they Resolved to Assassinate his Majesty in the Lane coming from *Brandford* to *Turnham-Green*; and Sir *George Barcley* was to Command Eight Persons to Assault the King, and those that were in the Coach; and Mr Charnock was to attack the Guards in the Rear; and one Rockwood with a Party that came from *France*, and Capt. *Porter*, in two Wings, were to attack the two sides of the Guards. I remember on *Sunday* Night I asked

him

Svvord Cutler? He told [illegible] of the Way; and he vvas ſent for to bring a good Svvord; and I choſe [illegible] that vvas but a little Blade, vvhich he thought vvould do beſt, and vvas ridiculing Capt. Charnock's Svvord as being too broad, and of three or four fingers breadth. *I* liked the Svvord and ſpoke to the Man to get me one like his; and he ſaid a *Tueſday* that he had ſent him to my Lodging, but I had not ſeen him. On *Theſday* the 18th. of *February I* vvent to him, and asked him vvhether *I* ſh ould ſee him in the Aſternoon? He told me, No; for he vvas to go out vvith *Knightly*, to buy Arms. Shall I ſee you then at Night? ſaid I. I cannot tell vvhether you can or no, ſaid he. *I* cannot remember any thing more that paſſed upon the 18th. But *I* ſpoke to Mr. Charnock, vvhom *I* met near his Lodging in Norfolk-ſtreet and deſired to have a Word vvith him tovvards the Water ſide: I asked him hovv the Matter in hand vvent? Says he, *I* find People that vvere ſanguine, and hot and forvvard, are novv grovvn cold; *I* believe the King has notice of it, and the thing has taken air, for he has not beeen abroad a good while; he was not abroad on *Saturday*, as he uſually does go; and I hear that upon *Friday* Night it was agreed in Council, to take up ſeveral People. Said I, does the Buſineſs go on? No, ſays he. I believe it is off, becauſe we apprehend the thing has taken air: beſides, things of ſuch a nature are not to be communicated to ſo many, nor delayed, both which are very dangerous; not above Three People ſhould know of it. Said I, How then would they get enough for the Execution? If they be not acquainted with the Deſign, they will never engage. Well, ſaid he, I believe they are quite off of the thoughts of it; but you may depend upon the main Buſineſs, that will be very ſpeedily, which was the landing of King *James*. While I was talking, comes *Bryerly* from Capt. *Porter*; and after him came Capt. *King* in a Coach, and asked me if I would go Home with him? I told him, No, *I* was not going Home, but was going into *White-Fryers*, and *I* took my leave of them; and nothing paſt more, that *I* remember, at that time. On *Wedneſday* Morning *I* went to Capt *Charnock's*, thinking to learn ſomething how Matters went on; but he was cloſer, and more reſerv'd than before. *I* asked him to lend me a good Sword. He ſaid he had none, but Mr. *Porter* had a good broad Flaming-Sword, which *I* thought to be the Sword that Capt. *King* mentioned to be his; and we had little Talk that day; for *I* had Buſineſs to do, and *I* left him pretty ſoon on the *Wedneſday*. Next day after, *I* went to Capt. *Porter's* Lodging, who was removed from *Norfolk-ſtreet* into *Maidenhead-lane*, to one *Brown* a Surgeon's, and very few People knew where he was, but thoſe that were of the Party in this Buſineſs; and *I* went into another Room, into the Dining-Room, becauſe his Room had not a Fire, and he came into us, and I told him what I heard from Mr. *Charnock*, that the thing was quite off. He told me, he heard nothing of it, but found all People that were concerned as reſolute for the execution of it, as ever they were.

Charnock. My Lord, he ſpeaks of what Capt. *Porter* told him; that is nothing to me.

L. C. J. No. it is not, nor will it ever be urged againſt you; it is but Hear-ſay from another. Go on, Sir.

De la Rue. I ſtayed there but a ſhort time: But Capt. *Charnock*, ſince you ſpeak of this matter, I only ſay I told Capt. *Porter*, what you told me, that you thought they were off of the buſineſs, and that it had taken air; and I asked him what he thought. Says he, I know nothing of any Alteration; I believe they are as reſolute as ever they

were a-

were; for they fully purpoſe, that if the King goes abroad on *Saturday* morning, we will have all ready: And he told me how it was to be done; he deſired me to lye with him on *Friday* night, that we might prepare every thing againſt the next day: But *I* could not do that; and therefore he bid me ſend at Nine, or thereabouts. I told him, I would be at my Lodging about that time, if he would ſend to me, to be ſure about Seven or Eight a Clock in the Morning. About that time in the morning Captain *Porter* ſends to me again, a Servant-Maid came to me, for the *Black* that uſed to attend him, uſed only to go abroad at Nights, and was not ſeen to go in and out a Days, for fear of being taken notice of; becauſe, as I ſaid, none but thoſe that were of the Party, knew that he Lodged there. I dreſt my ſelf, and went to Captain *Porter's* Lodging. He he was in bed, but preſently he riſes, and told me in French, *Tout eſt preſt*, All things are ready: And when he was up, he put on his Boots; and by and by, in comes Mr. *Kenrick*; and after him, in comes *Mr. Keys*; and after him, *Mr. King*, and *Mr. Pendergras*; and Captain *King* takes *Mr. Porter* into another Room, and there they were whiſpering a while, but I did not hear what they ſaid; but *King* told me afterwards, he did not obſerve that I was in the other Room. The Queſtion then was asked of *Cranburn*, when he ſaw Sir *George Barclay*? He ſaid he juſt came from him; and then Capt. *Porter* takes a Pen and Ink, and writes down a Liſt of the Perſons that he was ſure of, and he puts me down firſt. What, ſays Mr. *Pendergras*, are you the Captain? I told him, *I* believed *I* was in before the reſt of the Company that were there. Then Capt. *Porter* ſends Mr. *Cranburn* with the Liſt to Capt. *Charnock's* Lodgings; and in the mean time, when Mr. *Cranburn* was gone, Capt. *Porter* told me, that *Mr. Pendergras* was to be one of the Eight under Sir *George Barclay*, that was to Aſſaſſinate the King; and now, ſays he, *I* am going to lend him a Gun that will carry ſix or eight Bullets. Says Captain *King* thereupon to him, *I* hope you will not fear to break the Glaſs Windows. No, ſays he, *I* will have a Hand or a Finger in the Buſineſs. By and by came in News, that *Chambers*, one of the Orderly men, as they call'd them that lay at *Kenſington* to give intelligence, had ſent word that the King was to go abroad, and the Guards were gone out. *Durant* was to ſtay laſt, to ſee when the King went out. *Chambers* had been there all the Week. *Mr. Cranburn* came back, and told Capt. *Porter*, that *Chambers* had ſent to Capt. *Charnock*, that the King would go out that Day. At which all the company ſeemed joyful. Capt. *Porter* told me likewiſe of ſeveral Diſappointments that they had, both as to Time and as to *Men*; particularly that one *Major Lowick* had engaged to bring two *Men*, and that one of them had told his Wife that he was to *Mount* for King *James's* Service; and ſhe went & cried after him when he went to the Coffee-Houſe; and ſo he was forced to abſcond, and ſo we loſt three: And alſo told me, that *Kenrick* and he had broke his Arm; and when Captain *Porter* asked for *Sherburn* whom *Kenrick* had talked of, he ſaid he asked ſo many Queſtions, that he durſt not truſt him; ſo that they had loſt five or ſix in the whole: And there was one Plowden that they were diſappointed of beſides, whom they had very much reckoned upon. When Mr. *Cranburne* brought back the Liſt that Capt. *Porter* ſent to Captain *Charnock*, there were added to it ſeveral names, which Captain *Porter* ſaid were the names of the men that were to be under Captain *Charnock*, and that it was his hand; and at the bottom there were the Letters *R. C.* which I thought ſtood for *Robert Charnock*: the names made up about ſeventeen or eighteen; I told him I thought there had been more; he told me there would have been more, but that they were under ſome diſappointments; as I told you before. He asked me to get him ſome men to ſupply the defect, and I propoſed ſome names, to make him believe I was hearty in the buſineſs: We agreed to go to the *Blue Poſts* in *Spring Garden*, and I went under pretence to get the men, and came and told

told them I had got them, and I found Mr. *Pendergras* there, and I took Mr. *Keys* thither; and Capt. *Porter* ſent Mr. *Cranbourne* to Capt. *Charnock* ſeveral times; by and by word was brought that *Chambers* had ſent word the King would not go abroad that day; upon which they all looked very blank; and *Keys* came two or three times in, and went out again; he was ſeveral times up and down, at laſt he came and told us the Guards were returned from *Richmond* foaming; and he went down again to learn further Intelligence, and within a little time came and told us, the King's Coach was returned to the *Mews Gate*, and the people very much wondred what ſhould be the reaſon that the King did not go a Hunting for two *Saturdays* together, as he uſed to do: They ſeem'd to be in a very great conſternation at this News, and Capt. *Porter* ſaid he reſolved to go out of Town, and asked me if I would go; I told him No; I had a Suit in *Doctors Commons*, and I would go to my Proctor and Lawyers to conſult about it: Then he asked Mr. *Pendergras* to go with him, which he agreed to do; and Capt. *Porter* ſent *Keys* up to give the reſt of the company an account that there was no occaſion for them then, and ſo they diſperſed.

Charnock. Did I go out of Town, can you tell?

Mr. *De la Rue.* Now you put me in mind, Mr. *Cranburn* brought a Meſſage from you about that time to Captain *Porter*, that Sir *George Barclay* deſired to ſpeak with him at his Lodgings; Capt. *Porter* was then apprehenſive of Bayliffs meeting with him, and, ſays he, he knows this, I wonder he would not come to me; but he did not go to him, but reſolved ſpeedily to go out of Town, and *Keys* was to give an account where he was in the Country, that if occaſion was he might be ſent for. This is all I can at preſent recollect, only I beg your Pardon, I remember there were ſeveral Diſloyal Healths drank in the Company at ſeveral times, as the Reſtoring the late King, the Health of the Prince of *Wales*, the late Queen, and the French King; and particularly I remember when the News of the Diſappointment was, Mr. *Porter* took an Orange in his Hand and ſqueezed it, and gave it into the Hand of the next Perſon to him, whom he drank to, and began a Health to the ſqueezing the rotten Orange; and ſaid, Though we are diſappointed one day, I hope to have another: And *Keys* was at Dinner with them all the time, and every Body drank it, I did not ſee any Body refuſe it, but it went from one to another quite round.

Mr. Att. Gen. Pray who was there at that time?

Mr. *De la Rue* All the Company pledged the Health, and Mr. *Keys* was there.

Charnock. Pray was I there?

Mr *De la Rue.* No.

King Was I there?

Mr. *Dela Rue.* No, there were none of the Priſoners, but Mr. *Keys* who belonged to Mr. *Porter's* Party; *Mr. King* for his part belonged to Sir *George Barclay's* Party.

Mr. Att. Gen. My Lord, before we go to another Witneſs, I deſire to know whether the Priſoners will ask him any Queſtions?

Charnock. You ſay there was a Note of names ſent by me to Captain *Porter*, pray do you know my Hand-writing.

Mr. *De la Rue.* I cannot ſay I have ſeen you write, or that I ſee you write that; but I have ſeen your writing ſeveral times, and I believe it to your hand.

Charnock. Why ſo, have you any of my writing?

Mr. *De la Rue.* I have received ſeveral Notes from you, which I believe are your writing.

Charnock. But you do not ſwear that they were my writing, or that this was my writing.

Mr.

Mr. *De la Rue*, I tell you, you have ſent ſeveral Notes to me at ſeveral times, and you have owned the Meſſages came from you, and I do believe it was your Hand-writing becauſe it was like the reſt; And Capt. *Porter* told me it was your Hand writing.

Mr. Att. Gen. Pray did Mr. *Keys* uſe to ſit down at Table with Mr. *Porter*.

Mr. *De la Rue*. Yes, in all Companies he was treated as familiarly as a Companion, and no ways as a Servant, and Dined and Supped at the ſame Table with the reſt.

Mr. Att. Gen. What was done after that the News was brought of the King's not going abroad, and Capt. *Porter* reſolving to go into the Country?

Mr. *De la Rue*. When Capt. *Porter* was gone, the Company broke up; and away goes I to Capt. *Charnock*, to ſee him, about Four of the Clock in the Afternoon. When I came there, his Landlady told me there was a great deal of Company: But I deſired her to go in, and tell him that I was there. She did ſo; and he ſent and deſired me to come in. I did ſo, and I ſaw ſeveral Perſons there. There was one *Douglas*, and one *Trevor*, and four Troopers of my Lord of *Oxfords* Regiment, and a Trumperer that was his Servant in *Ireland*, when he was a Captain in *Parker*'s Regiment; I know Capt. *Charnock* was a great Croney of *Parker*'s and he ſent Letters by me to him; I have ſeen ſome of the Letters that *Parker* ſent, and they were Drinking the ſame Healths as were drank before at the *Blue Poſts*, to the Reſtoring King *James*, the Queen, the Prince of *Wales*, and the Grand Monarch (as they called him) the French King.

L. C. J. Holt. Who was in Company then?

Mr. *De la Rue*, Mr. *Douglace*, Mr. *Trevor*, four Troopers of my Lord of *Oxford*'s Regiment, one *White*, one *Lowthorp*, and one *Maſon*, whom I know when I ſee very well; Mr. *Charnock* one day in the Summer, asked me to go and drink a Bowl of Punch, which I was unwilling to do, but he muſt needs preſs me, and he carries me where *Maſon* and *Lawthorp* were, at the *George Inn* in *Piccadilly*, whence we went to the Prince of *Orange*'s Head, and Capt. *Charnock* ſpent in Wine and other Liquors upon them a great deal of Money; this was half a year ago in the Summer time, but I do not remember that I ſaw thoſe two, *Lowthorp* and *Maſon*, afterwards, till the 22th of *February*.

Mr. Att. Gen. Is this all that you can ſay as to the Priſoners?

Mr. De la Rue. This is all at preſent that I can recollect.

Mr. A. G. Then for the Satisfaction of the Court and the Jury, give us an account when you firſt made a Diſcovery of this Conſpiracy, and in what manner and to whom.

Mr. *De la Rue*. The laſt year I had diſcovered it if it had come to a head, and been ripe enough to have been put in Execution; I did then deſign to acquaint the King with it; but it coming to no head then, I deferr'd troubling the King with it; and now this year *I* deſigned (had the King gone out the 15th of *February*) to have prevented any Miſchief, but they had notice that he was not to go: But my way was, to have put them all into the King's Hands, by getting two or three General Officers to be acquainted with it; and dividing ſome of the Guards into ſeveral Parties in the Lanes between *Brentford* and *Turnham-Green*, and ſo have ſurprized them and their Horſes in the ſeveral Inns that they were Quartered in. But upon *Monday* the 27th of *February*, leaſt they ſhould alter their Reſolution, and *I* ſhould happen not to be acquainted how it was to be done, *I* went to a General Officer of my acquaintance, that is Brigadier *Lawſon*, to acquaint him with the Matter, but he was gone out of Town with Colonel *Fitz Patrik* and another: *I* went then to *Durant*'s Lodgings for a Colour, and it was told me, he had been out all Night; *I* went again to Brigadier *Lawſons*, but he was not in Town, and *I* left word for him, that the next day *I* would wait upon him, and deſired he would not go out till *I* came to him. *I* went, he was not then at home, but *I* afterwards met with him, and acquaints him with this Buſineſs, and begs of him to acquaint the King with it that day, which he told me he would. He asked me which way *I* purpoſed to put them into the King's

Hands. I told him the best way and the safest for me, was for his Majesty to go out on the 22d, for the party that was to execute this Design, were not to go out of Town till the Afternoon, to be at *Brentford* when the King came back from Hunting, and that they should have two or three Troops of Horse by Parties to have seized them and their Horses in the several Inns and Publick Houses where they were dispersed. He said it was not safe to run that hazard, but he would offer it to the King and let me know his mind. He sent to me the next day and told me, he had acquainted the King with it, who desired to know who they were that were concerned in it; then I gave him the Names of those that I knew, and where they live. I Dined with him on *Thursday*, and told him what had passed on *Wednesday* morning between Captain *Charnock* and I, and what *Porter* said about it on *Wednesday* Night; and after Dinner he said he would go again to the King and acquaint him with it, and that I should come to him on *Friday* Night, which was the reason I was not there with Capt. *Porter*, where Sir *George Barclay* and they were together; for I went to the Play to pass away the time: When I came home to my Lodging I found there were a couple of Letters from the Brigadier, to whom I went, and he told me the King was desirous to see me: I told him I would wait on him to the King with all my heart: I went with him to *Kensington*, and was introduced to the King by my Lord *Portland*, where I think I told the King what I have told the Court now.

Mr. *Att. Gen.* What day do you say it was you discover'd it to the King?

Mr. De la Rue. Brigadier *Lewson* acquainted the King upon the *Tuesday* Night before, and that had been done the day before if I could have met with him; but it was *Friday* Night that I was with the King.

Mr. Att. Gen. Will they ask him any Questions?

Charn. No, my Lord; I do not think that any thing he says against me is Material at all.

L. C. J. Holt. The most of what he says is as to Mr. *King*.

Mr. De la Rue. My Lord, I remember one thing more; that upon *Tuesday* Night Mr. *King* told me that he had my Blew Coat on.

Mr. Att. Gen. Have you any thing more to say as to *Keys*?

Mr. De la Rue. Keys was the only Man that told me of the meetings.

Charn. Where was it that you say I pull'd my self back in the Coach?

De la Rue. It was at the *Nagg's Head* in *St James's-Street*, and he came out of the Coach and asked me to go up; but I took it ill to be refused before, and because I was not invited up at first, I refused, and said I had business elsewhere, and went away.

L. C. J. Holt. Will you ask him any more Questions?

Charn. No; yet I think I would ask him one Quest on more. You say, Sir, I carry'd you once to the *George Inn* in *Piccadilly*, where there were *Lowthorpe* and *Mason*; Are you sure it was the *George Inn*?

De la Rue. Yes, sure.

Charn. Are you positive it was the *George Inn*?

De la Rue. I believe so, I took it to be that *Inn*?

Charn. You did Swear it positively that it was the *George Inn* before.

De la Rue. I saw those two Men since, which was on the *Sunday* the 23. at *Kensington*, and they said they did quarter at the inn in *Piccadilly*, where you carried me to them.

Charn. Pray where about is the *George inn* in *Piccadilly*?

De la Rue. The inn that I speak of is about the middle of *Piccadilly* upon the left hand.

Charn. There is but one *George inn* in all *Piccadilly* that ever I heard of, and that is at the further end, there is no such Sign in the middle.

L. C. J. Holt. He is not so positive as to the Sign, but as to the Place.

Charn. I appeal to every body if he did not Swear before positively, that it was the *George* inn in *Piccadilly*.

De la Rue.

De la Rue. I do ſay it was to an inn in *Piccadilly*; and *Lowthorpe* told me on *Sunday* the 23. at *Kenſington*, they were quarter'd at an inn in *Piccadilly*, I take it to be the *George* In, if it be not the *George* I know not what Sign it is, but I think it is not very material what the Sign was

Charn. Yes, it is all material to us; and I think it is very material for every Man to take care how he forſwears himſelf.

L. C. J. Holt. No, it is no forſwearing himſelf, when he is not poſitive as to the Sign.

Charn. But I hope every body conſiders that he did Swear it was the *George inn* and there is no ſuch inn there.

De la Rue. This I did not think of, to take ſo much notice of it then as to mind what the Sign was; 'twas you carry'd me thither.

Charn. It was your intereſt to mind every particular; for according to your own Words, you had been a Trappaner half a year before.

De la Rue. I have told you already, I intended never to have been an Evidence, but to put you into the King's hands, and prevent the Execution of the Deſign, and I beg'd of the Council to be excuſed from giving an Evidence, but I could not by any means get my ſelf excuſed.

L. C. J. Holt. Will Mr. *King* ask any Queſtions?

King. No.

L. C. J. Holt. Well, what ſay you *Keys*, will you ask him any Queſtions?

Keys. My Lord, he ſays I drank the Health to the ſqueezing of the *Orange*, and the other Healths: I was not in the Room while any ſuch Healths were drunk, nor did I ſit down while I was there, nor do I know any thing of the Horſes upon my word, that he ſpeaks of.

Mr. Att. Gen. Then if they have done with him, there is a Noble Lord, whom he has mention'd, as being preſent when he diſcovered this to the King, whom we deſire may be examined touching that matter; we muſt humbly pray my Lord *Portland*, that he will pleaſe to be Sworn.

L. C. J. Holt. Hold my Lord the Book, and ſwear him. Which was done.

Mr. Att. Gen. My Lord, I humbly ask your Lordſhip this one Queſtion. Whether *Mr. De la Rue* did make any Diſcovery of this matter in your preſence to His Majeſty, on *Friday* the 21th of *February*?

E. of *Portland.* Yes, he did.

Mr. Att. Gen. Your Lordſhip has heard what he ſaid now; was it to the ſame purpoſe?

E. of *Portland* Yes, to the very ſame purpoſe, and he did it before he went into the King to me, being brought to me by his own deſire; it was all the ſame in ſubſtance as he has told you now; and afterwards he was brought to the King on *Friday* Night, and there he ſaid the ſame things.

Mr Sell. Gen. This Gentleman did it not to ſave his own Life, but the Kings. Our next Witneſs, my Lord, is Mr. *Pendergraſs*, who was Sworn.

Mr. *Att. Gen.* But before we go on to another Evidence, I would ask Mr *Porter* one Queſtion, and that is, What is become of the Liſt which you ſpoke of?

Captain *Porter.* I burnt that Liſt.

Mr. *Att. Gen.* Why did you ſo?

Capt. *Porter.* Becauſe I thought the thing was diſcover'd, and it was not fit to have ſuch a Paper remain.

Mr. *Sell. Gen.* Mr. *Pendergraſs*, pray will you tell my Lord and the Jury what you know about this matter, how you came to be acquainted with it, who were concerned in it, and when and how it was to be done.

Capt. *Pen*

Capt. *Pendergras.* My Lord, about the 11th of *February* laſt, I was ſent to by Capt. *Porter*, where I was in the Country, to come to Town; the 13th of *February* I met him at the *Blue Poſts* in *Spring-Garden*; we dined there, and he told me of a Deſign that was on foot, to take away the Kings Life, and that Sir *Geo. Barkly*, and other Officers, were come on purpoſe out of *France*, in order to execute the ſame. I was very uneaſie when he told me of the thing, but I ſaid nothing, till I had an opportunity of waiting upon my L. *Portland*, which I did as ſoon as I could, and acquainted him with the whole matter of the Deſign, and deſir'd him to acquaint the King: This was upon the *Friday* night, which was the 14th, and he told me the King had a mind to ſpeak with me; and afterwards my L. *Portland* carried me into the Kings Cloſet, where the King ask'd me ſome Queſtions. I told him what I knew of the Deſign, but deſir'd to be excus'd from naming any Perſons, becauſe my intention was only to prevent ſuch a barbarous Action, and was reſolv'd not to be a Witneſs. The King promiſed me I ſhould be ſafe, and preſs'd me to name them, and aſſur'd me I ſhould not be forc'd to come in as an Evidence; upon which I did tell all that I knew, and went out of Town with Mr. *Porter*, as reſolving not to be an Evidence; but being ſatisfied, after we were taken, that Mr. *Porter*, who had engaged me in it, had himſelf diſcover'd, and accus'd me, I thought my ſelf diſcharg'd from any Obligation of Honour in concealing it, and am willing to give an Account of any thing that I know.

Mr. *Att. Gen.* We know you do it voluntarily, as you did it at firſt honorably, and therefore, Sir, we deſire you would pleaſe to give an account of your Knowledge in that matter.

Capt. *Pendergras.* My Lord, as I told you before, the 11th of *February* I was ſent to by Capt. *Porter* into the Country, where I was with Mr. *Bryerly*, to come to Town; accordingly the 13th which was the *Thurſday*, I came to Town with Mr. *Bryerly*, and found Capt. *Porter* at the *Blue Poſts* in *Spring-Garden*, and we dined there. There was *Keys*, and *Bryerly*, and *Porter*, and I in company, where he acquainted me with the Deſign. We had no further Diſcourſe that day; the next day we dined at the *Roſe Tavern* in *Covent Garden*, where there was *King*, *Bryerly*, *Cranbourne*, *Porter*, and I dined together.

King. Pray, was it by way of Rendezvous or ſet Meeting?

L. C. J. Holt. Look you, you muſt ſtay your time before you ask any Queſtions of the Witneſſes; you ſhall be heard, when your time comes, as fully as you deſire. Go on Sir.

Capt. *Pendergras.* This was *Friday* the 14th of *February*, we had ſome Diſcourſe about the matter; Capt. *King* and Capt. *Porter* went away, and then I went to my L. *Portlands*, and was by him introduced to the King. The 15th I came to Capt. *Porters* Lodgings, and he was getting ready, in expectation of notice

notice whether they should execute the Design that day or no. While he was getting ready, I goes to the *Blue Posts*, where was *Kenrick* and *Sherbourne*, and Mr. *Bryerly*, and there we were drinking a Glass of Wine, and in comes *Durants*, who was an orderly Man that lay at *Kensington*, to give intelligence; and *Bryerly* directed him to Capt. *Porters* Lodgings to carry the intelligence which he brought, that the King intended to go out that day; upon that he went away to his Lodging, and Captain *Porter* came a little time after, booted, to the *Blue Posts*, and there he din'd; within an hour or two after Capt. *Porter* came in, Mr. *Charnocke* sent a Note to Capt. *Porter*, to tell him, the King did not go that day, and so there must be Counter Orders; Capt. *Porter* told me it was his Hand; the Note was signed *R. Robison*, and he shewed me the Note, and acquainted me and the rest of the Company, that they were disappointed that day, since the King did not go; there we dined and drank a Bottle of Wine. The next time we met there was Mr. *King*, and Mr. *Keys*, and Mr. *de la Rue*, at Mr. *Porters* Lodgings; this was *Saturday* the 22*d*. in the Morning, there we had some Discourse of the Matter; and Captain, *Porter*, upon notice from Capt. *Charnocke* of the Kings intending to go a broad, had sent a List of his Men, and receiv'd back a List of Capt. *Charnocks*, and Capt. *Porter*, and *De la Rue*, and we went to the *Blue Posts* to dine, where we had an account afterwards that the King did not go, and so there was another Disappointment; and a little after *Keys* came in, and said, the Guards were come home all in a foam, and the *Kings* Coaches came back to the *Mews*. Capt. *Porter*, then thought all was discover'd, and says he, I will go into the Country, Mr. *Pendergrass*, will you go with me? With all my heart, said I, so we sent *Keyes* to get our Horses ready; we lay at *Epsom* that Night, and from thence to another place we went the next day, where we lay till *Thursday* morning, when Captain *Porter*, Mr. *Keys* and I was taken together, the Place was called *Leatherhead*, in *Surrey*, whence we were brought up to Town, and have remained Prisoners ever since.

Mr. *Att. Gen.* Which of the Prisoners were there present upon the *Saturday* the 22*d*. at Captain *Porter's* Lodgings?

Capt. *Pend.* There was Captain *King* and Mr. *Keys*.

Mr. *Att. Gen.* Pray was there any Discourse about a Gun, and who was to have it?

Cap. *Pend.* Captain *Porter* told me there was a Musketoon that he had would carry 6 or 8 Bullets, and I should have it, being to joyn with Sir *George Barckley* to set upon the *King's* Coach, and directed me to be sure to shoot some of the Horses to stop their Course if they seemed to drive furiously away; and Mr. *Cranbourn* was the person that carried the Messages from Mr. *Charnock* to Mr. *Porter*.

Mr. *Soll. Gen.* Do you remember Sir, that *Keys* said the Guards were come back?

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Capt. *Penn.* Yes, and that they were all in a foam, and the Coaches were come back to the *Mews* Gate, and one of my Lord of *Oxford*'s Regiment told him there was ſomething extraordinary mutter'd among the People, upon which they concluded it was diſcovered.

Mr. *Att. Gen.* Will the Priſoners ask him any Queſtions?

Char. King and *Keys.* No.

Mr. *Att. Gen.* Then I muſt beg the Favour of my Lord *Portland* to give himſelf the further trouble of acquainting the Court how this Gentleman behaved himſelf in reference to this Diſcovery.

E. of *Portland*, My Lord, it was, as he has acquainted you. This Gentleman came to me upon the *Friday* Night, and told me of it; and then upon the ſame *Friday* Night, which was the 14th, I think the Night before the firſt time that it was to have been executed, and declared his abhorrence of ſuch a barbarous buſineſs: And he told me his deſign of coming into it, and keeping Company with them was to ſave the King's Life by acquainting me with it, and diſcovering it, which he would do upon a Promiſe that he ſhould not be uſed as an Evidence, nor preſſed ſo much as to name Names, which Promiſe *I* made him, and the ſame Promiſes were made him that day ſeven night, when *I* carried him to the King. But the King preſſing him to name their Names, aſſuring him he ſhould be ſafe and not forced to be an Evidence, he did then name the Names under that Promiſe from the King.

Mr. *Att. Gen.* Pray my Lord, who was by then beſides your Lordſhip?

E. of *Portl.* My Lord *Cutts*.

Mr. *Att. Gen.* We muſt deſire my Lord *Cutts* will pleaſe to be ſworn.

(*Which was done.*)

Mr. *Soll. Gen.* Pray my Lord will you pleaſe to acquaint the Court and the Jury what happen'd at that time.

L. *Cutts*. My Lords, I was in the Kings Cloſet that ſame *Friday* Night when Mr. *Pendergraſs* was brought in there: 'Twas, as near as I can remember, between 12 and 1 a Clock at Night; no body was preſent but my ſelf, with the King, when my Lord *Portland* came in with this Gentleman: All that he ſaid to the King at firſt was, that he had a Diſcovery to make of a Deſign to Aſſaſſinate his Perſon, if that his Name might not be made uſe of, nor he forced to be an Accuſer or a Witneſs. And therefore deſired to be excuſed if he ſaid no more; then deſiring the King not to go out the next Day, but to take care of himſelf, becauſe there were ſome Perſons had reſolved to Aſſaſſinate him coming home; but beg'd to be excus'd from naming Names, for he ſaid he would rather die than Betray his Friend, and he thought it enough that he had ſaved his Majeſty's Life. It was above half an Hour before the King could perſwade him to name Names, and he would not, till the King had given him his Word and Honour, that he ſhould not be obliged to be a Witneſs, and then he did name the Names afterwards, when Captain *Porter* and Mr. *Pendergraſs* were taken, as my Station obliged me to give Orders, and require Intelligence, and aſſiſt at the ſecuring and examination of the Conſpirators. I happend to ſee them before they were carried into the Counſel, and preſently knew Mr. *Pendergras* to be the Perſon that was with the King that *Friday* Night; I had a great Compaſſion to ſee Gentlemen and Officers, whom I had ſome knowledge of before, in ſuch a Condition, and I told them naturally what my Opinion was: Mr. *Prter* did ſeem ſorry for what he had done, and inclin'd to make the King that Attonement for his Fault which he has now done. When I came out and told Mr. *Pendergras* this, and that Mr. *Porter* had named him, and owned the whole matter, I only gave him my Opinion upon it, that I thought he was diſcharged from any Obligation of Friendſhip; and he ſeemed then inclined to do the ſame likewiſe that Mr. *Porter* had done.

Mr. *Soll. Gen.* Swear *Thomas Bertbram*. (*Which was done.*) Pray do you give my Lord and

the Jury an Account how long you have known Mr. *Charnock* to be engag'd in this Conspiracy: Tell your whole knowledge as to him.

Mr. *Berth.* The 8th or 9th of *February* last I was crossing *Covent Garden*, I lit upon one Mr. *Trevor*, who is now in *Newgate*, and he told me he was going down to Mr. *Charnock*'s Lodgings, and that he heard him say he wanted to speak with me; I told him he had no business with me, nor I with him that I knew of. But he prevailed upon me to go with him, and when we came to Mr. *Charnock*'s Lodgings, he met me in the Entry.

Mr Sol. Gen. Who did?

Mr. *Berth.* Mr. *Charnock* did. He told me he wanted to speak with me, and took me into a back Room, because he had Company in his own; and he told me the King, that is, King *James*, was a coming, and there was a piece of Service to be done before he could come, and if I would assist in it, it would answer my Expectation. I asked him what was to be done? He answered, you must only go abroad to take the Air, you will see several of your Acquaintance there. I desired to know what was to be done? He said it was to cut off this Spark, or to take off this Spark, I can't tell which, and then the King will come home quietly.

Mr. Att. Gen. Who were to cut him off?

Mr. *Berth.* The Party that I was to meet when we rode out to take the Air.

L. C. J. Holt. Who did they say they were to take off?

Mr. *Berth.* He said we must take off this Spark, or cut off this Spark, I can't tell which, which I understood to be the King.

Mr. Att. Gen. How long had you known *Charnock*?

Mr. *Berth.* By times, seven Years.

Mr. *Cooper.* How came you acquainted with him?

Mr. *Berth.* We were in the Army together; he was a Lieutenant in Col. *Parker*'s Regiment, and I was a Trooper there then.

Mr. Sol. Gen. What Discourse was there between you and *Charnock* after you heard there were Warrents out?

Mr. *Berth.* Sir I have not yet done with what past at his Lodgings. He ask'd me if I would Accept of being one in the business? I told him I could not engage in it, for I had disposed of my self otherwise. So we came out of that little Room, and he desired me to come into his Room and Drink a Glass of Wine: There were three or four Gentlemen that I did not know; and then there was one Mr. *Chambers*, and Mr. *Trevor*, and Mr. *Lee* which Mr. *Chambers* fetch'd afterwards in there.

Mr. Att. Gen. He would not be engaged there because he had otherwise disposed of himself: Indeed, he was engaged with Sir *William Perkins*.

Mr. *Berth.* After I came in I observed great Whisperings among the Company, and frequent calling out of Mr. *Charnock* for private Discourse; but there was no other particular Discourse about this matter that Night.

Mr. Sol Gen. Pray when did you see Mr. *Charnock* gain, and where?

Mr. *Berth.* At another time, which was the 22d of *February*, I met him at *Lincolns-Inn* back Gate; and meeting them there, he called me aside, and took me within the Inn upon the Pav'd stones, we took a turn there: He told me Warrants were out against us as he heard, and we had as good, if I would come to his Lodging, go out to *Kensington* and do the work at once and take him off, and then we shall be at quiet, and have the King Peaceably here. I am sure he cannot say that I do him a word of wrong in what I have said, he knows it all to be true.

Mr. *Cooper.* Has any Body else engaged you in this matter? Do you know one *Lowick*?

Mr. *Berth.* If that be necessary I will tell it. But this is all that I know of any thing of the Prisoners; only Mr. *Charnock* did ask me as to Mr. *Trevor*, what I thought of him, whether he might trust him? I told him he might do what he pleased.

L. C. J.

Capt. *Vixe.* Yes, and that they were all in a foam, and the Coaches were come back to the *Mews* Gate, and one of my Lord of *Oxford's* Regiment told him there was something extraordinary mutter'd among the People, upon which they concluded it was discovered.

Mr. *Att. Gen.* Will the Prisoners ask him any Questions?

Chur. King and *Keys.* No.

Mr. *Att. Gen.* Then I must beg the Favour of my Lord *Portland* to give himself the further trouble of acquainting the Court how this Gentleman behaved himself in reference to this Discovery.

E. of *Portland,* My Lord, it was, as he has acquainted you. This Gentleman came to me upon the *Friday* Night, and told me of it; and then upon the same *Friday* Night, which was the 14th, I think the Night before the first time that it was to have been executed, and declared his abhorrence of such a barbarous business: And he told me his design of coming into it, and keeping Company with them was to save the King's Life by acquainting me with it, and discovering it, which he would do upon a Promise that he should not be used as an Evidence, nor pressed so much as to name Names, which Promise *I* made him, and the same Promises were made him that day seven night, when *I* carried him to the King. But the King pressing him to name their Names, assuring him he should be safe and not forced to be an Evidence, he did then name the Names under that Promise from the King.

Mr. *Att. Gen.* Pray my Lord, who was by then besides your Lordship?

E. of *Portl.* My Lord *Cutts.*

Mr. *Att. Gen.* We must desire my Lord *Cutts* will please to be sworn.

(*Which was done.*)

Mr. *Soll. Gen.* Pray my Lord will you please to acquaint the Court and the Jury what happen'd at that time.

L. *Cutts.* My Lords, I was in the Kings Closet that same *Friday* Night when Mr. *Pendergrass* was brought in there: 'Twas, as near as I can remember, between 12 and 1 a Clock at Night; no body was present but my self, with the King, when my Lord *Portland* came in with this Gentleman: All that he said to the King at first was, that he had a Discovery to make of a Design to Assassinate his Person, if that his Name might not be made use of, nor he forced to be an Accuser or a Witness. And therefore desired to be excused if he said no more; then desiring the King not to go out the next Day, but to take care of himself, because there were some Persons had resolved to Assassinate him coming home; but beg'd to be excus'd from naming Names, for he said he would rather die than Betray his Friend, and he thought it enough that he had saved his Majesty's Life. It was above half an Hour before the King could perswade him to name Names, and he would not, till the King had given him his Word and Honour, that he should not be obliged to be a Witness, and then he did name the Names afterwards, when Captain *Porter* and Mr. *Pendergrass* were taken, as my Station obliged me to give Orders, and require Intelligence, and assist at the securing and examination of the Conspirators. I happend to see them before they were carried into the Council, and presently knew Mr. *Pendergrass* to be the Person that was with the King that *Friday* Night; I had a great Compassion to see Gentlemen and Officers, whom I had some knowledge of before, in such a Condition, and I told them naturally what my Opinion was: Mr. *Prter* did seem sorry for what he had done, and inclin'd to make the King that Attonement for his Fault which he has now done. When I came out and told Mr. *Pendergrass* this, and that Mr. *Porter* had named him, and owned the whole matter, I only gave him my Opinion upon it, that I thought he was discharged from any Obligation of Friendship; and he seemed then inclined to do the same likewise that Mr. *Porter* had done.

Mr. Soll. Gen. Swear *Thomas Bertram.* (*Which was done.*) Pray do you give my Lord and

the Jury an Account how long you have known Mr. *Charnock* to be engag'd in this Conspiracy: Tell your whole knowledge as to him.

Mr. *Berth.* The 8th or 9th of *February* last I was crossing *Covent Garden*, I lit upon one Mr. *Trevor*, who is now in *Newgate*, and he told me he was going down to Mr. *Charnock*'s Lodgings, and that he heard him say he wanted to speak with me; I told him he had no business with me, nor I with him that I knew of. But he prevailed upon me to go with him, and when we came to Mr. *Charnock*'s Lodgings, he met me in the Entry.

Mr. Sol. Gen. Who did?

Mr. *Berth.* Mr. *Charnock* did. He told me he wanted to speak with me, and took me into a back Room, because he had Company in his own; and he told me the King, that is, King *James*, was a coming, and there was a piece of Service to be done before he could come, and if I would assist in it, it would answer my Expectation. I asked him what was to be done? He answered, you must only go abroad to take the Air, you will see several of your Acquaintance there. I desired to know what was to be done? He said it was to cut off this Spark, or to take off this Spark, I can't tell which, and then the King will come home quietly.

Mr. Att. Gen. Who were to cut him off?

Mr. *Berth.* The Party that I was to meet when we rode out to take the Air.

L. C. J. Holt. Who did they say they were to take off?

Mr. *Berth.* He said we must take off this Spark, or cut off this Spark, I can't tell which, which I understood to be the King.

Mr. Att. Gen. How long had you known *Charnock*?

Mr. *Berth.* By times, seven Years.

Mr. Cooper. How came you acquainted with him?

Mr. *Berth.* We were in the Army together; he was a Lieutenant in Col. *Parker*'s Regiment, and I was a Trooper there then.

Mr. Sol. Gen. What Discourse was there between you and *Charnock* after you heard there were Warrents out?

Mr. *Berth.* Sir I have not yet done with what past at his Lodgings. He ask'd me if I would Accept of being one in the business? I told him I could not engage in it, for I had disposed of my self otherwise. So we came out of that little Room, and he desired me to come into his Room and Drink a Glass of Wine: There were three or four Gentlemen that I did not know; and then there was one Mr. *Chambers*, and Mr. *Trevor*, and Mr. *Lee* which Mr. *Chambers* fetch'd afterwards in there.

Mr. Att. Gen. He would not be engaged there because he had otherwise disposed of himself: Indeed, he was engaged with Sir *William Perkins*.

Mr. *Berth.* After I came in I observed great Whisperings among the Company, and frequent calling out of Mr. *Charnock* for private Discourse; but there was no other particular Discourse about this matter that Night.

Mr. Sol Gen. Pray when did you see Mr. *Charnock* gain, and where?

Mr. *Berth.* At another time, which was the 21d of *February*, I met him at *Lincolns-Inn* back Gate; and meeting them there, he called me aside, and took me within the Inn upon the Pav'd stones, we took a turn there: He told me Warrants were out against us as he heard, and we had as good, if I would come to his Lodging, go out to *Kensington* and do the work at once and take him off, and then we shall be at quiet, and have the King Peaceably here. I am sure he cannot say that I do him a word of wrong in what I have said, he knows it all to be true.

Mr. *Cooper.* Has any Body else engaged you in this matter? Do you know one *Lowick*?

Mr. *Berth.* If that be necessary, I will tell it. But this is all that I know of anything of the Prisoners; only Mr. *Charnock* did ask me as to Mr. *Trevor*, what I thought of him, whether he might trust him? I told him he might do what he pleased.

L. C. J.

L. C. J. H. Mr. *Charnock* will you ask him any questions? for his Evidence relates only to you.

Char. No, I think not. Pray did I send for you?

Mr. *Berth.* *I* met Mr. *Trevor*, and he told me, he was coming to your Lodgings, and that you desired to speak with me: And when *I* came, you told me your self you wanted to speak with me: Indeed *I* knew no business you had with me, or *I* with you.

Mr. Att. Gen. We have one more Witness, and this is one Mr. *Boyse*, (*who was Sworn.*)

Mr. Sol. Gen. Pray Mr. *Boyse* will you give an Account when you were spoke to about this Design, and by whome

Mr. *Boyse.* on *Friday* the 14th of *February* *I* went to visit Mr. *King*, and he was the first that ever told me of the business; it was in his own Chamber, he told me there was a great Undertaking in Hand, and he had put my Name into the List, and if *I* would make one, *I* should have a Horse; and he asked me if *I* had any Boots? *I* said no. He desired me to see if *I* could get any, and to meet him in the Afternoon at the *Rose Tavern* in *Covent Garden*; but in the mean time he bid me go to Mr. *Knightley* and he would inform me further. *I* went to Mr. *Knightley*, and *I* came to Mr. *King* again in the Afternoon at the *Rose Tavern*, and he desired me not to be out of the way the next day, but to be at my Lodging, and he would come or send for me; and *I* had Twenty Shillings of him to buy Boots, and he still referr'd me to Mr. *Knightley*. When *I* came to Mr. *Knightley* *I* was told there was nothing to be done that Day; But *I* was desired to be always in the way, for the business would soon be over. This is all the Discourse that Day. After that I met Mr. *King* several times, who still referr'd me to Mr. *Knighley*, and when lasked him for my Horse, he told me I should have one alloted for me time enough; and when this thing was done we should be happy: But he never told me it was to take off the King.

Mr. Att Gen Pray what did you understand was to be done?

Mr. *Boyse*, I did believe I should know further of it; for *I* would not have engaged till *I* did know. But he did not tell me it was to take off the King, or what it was. This to the best of my Memory, is what *I* know of the matter.

Mr. Att. Gen. Pray when did you come from *France*.

Mr. *Boyse*. He told me indeed several were come from *France*, and that the King would Land very Speedily.

Mr. Att. Gen. But when did you come?

Mr. *Boyse*. *I* came the beginning of *June* last.

Mr. Att. Gen. Do you remember nothing about Sir *George Bartley*?

Mr. *Boyse*. Yes, he tould me Sir *George Bartley* would command the Party, and that there were about 40, or 50. that were concerned in the Design.

Mr. Sol. Gen. Do you remember nothing else?

Mr. *Boyse*. No truly, *I* do not remember any thing more concerning Mr. *King*.

L. C. J. H. Mr. *King* will you ask him any Questions? for what he says relates only to you.

King. No my Lord.

Mr. Att Gen. Then we have done my Lord; we rest it here till we hear what they can say.

L. C. J. H. Mr. *Charnock*, The King's Council have done all the Evidence they design to give, and now is your time to make your Defence.

Charnock. My Lord, *I* have taken some Notes of the Evidence, and made some Remarks, which must be my Defence; and I shall take them in Order of time as they were given; The first is Capt. *Porter*; and the main Evidence he hath given against me, is my informing him that Sir *George Bertley* was come from *France*, with a Commission all written with K. *James*'s own Hand, thereby authorizing us to raise War against the Person of King *William*. But then he says at the same time, I told him I never saw it; and *I* know not how *I* should; for it is impossible

possible to see a thing that is invisible, a thing that never was in being, and to suppose that ever there should be such a Commission under the Kings own Hand, and writ with his own Hand, is such a contradiction to all Sense and Reason, that no rational Man can be guilty of; and therefore *I* hope the Court and the Jury will consider of it, and reject it all as a foolish, idle, nonsensical Fiction and Story. *It* is very well known that King *James* has always had, and still has, notwithstanding his present sufferings and circumstances, his Ministers of State about him, in how slender a Condition soever they may be, or be represented to be: He has my *Lord Middleton* as his Secretary of State, he has been all along with him, and it is not supposable, that he should put himself to the Trouble of Writing any Commissions with his own Hand, when there were others enough to do it for him, and he need only sign the Top of it *James R.* much less it is supposable, that he should give any such Commission as this that they speak of, and write it all with his own Hand, and that *Sir George Barclay* should bring it over. This is such a nonsensical ridiculous Story as ought to be rejected with Scorn and Contempt, and is only fit to be laughed at; *I* hope every Body will look upon it as such, and think that such Evidence is very incredible.

My Lord, Another thing that *I* observe out of Captain *Porter's* Evidence is this, he says, he and *I* was to command a Party; he knows what he intended to do, but *I* am sure I know of no Party that *I* was to command. *It* is all a Dream, a meer Dream and a Fiction. He thinks fit to acknowledge his own Guilt of a very bad Crime, and he may accuse himself as long as he will, but *I* think that will not make me guilty of any such thing only because he says so; He does not say what Men they were, or who they were; and it cannot be an Overt Act, unless he can tell who they were. He says *Sir George Barclay* and *I* met at the *Sun Tavern* in the *Strand*, and at several other places where this matter was discoursed of, and a great many were supposed to be in the Assassination, to the Number of Forty; but he does not mention any thing then of its being discoursed who they were to be: And is it supposable when the Design he talks of was so near being put in Execution, it should not be known who should engage in it? For my part, *I* deny that ever *I* was with him at any place where *Sir George Barclay*, or any Body else, talked of any such thing. When *I* was examined before the Council, my *Lord Keeper* asked me when *I* saw the Duke of *Berwick*? *I* thought it not fit to answer that Question, because *I* knew the Duke of *Berwick* was outlawed here, and *I* might accuse my self if *I* acknowledged having been in his Company, tho' it were at St. *Germains*. But *I* said *I* never believed he was in *London*, and *I* do not believe he was. *I* heard that Colonel *Parker* was in *England*, but *I* did not see him; and as to the Major General and other Officers, they talk of, it is all a Jest to me, and it is no way at all to be believed or credited; that because other Men have Notions of Castles in the Air, *I* must be so foolish as to believe such impertinencies too. He says *I* sent him a List of Men, and written with my own Hand, and subscribed with the two Letters of my Name: he does not swear he saw me write it, and Similitude of Hands was never thought good in Criminal Causes; and I believe it was never look'd upon for Law, that it should be a good Evidence for a Man to swear such a Writing was another Man's own Hand, unless he says he saw him write it, and kept it in his own Custody till it should be produced as Evidence, and produce it in open Court, and not let it go out of his Custody till then. All these things, I apprehend, the Law Judges necessary to make a good Proof of a Writing to be of a Man's own Hand; but here is nothing of that here; Here is nothing produced, nor does he say he saw me write it; and so I think it all goes for nothing, a meer idle invention of his own. *My Lord*, upon this Evidence there is not any positive Proof of my doing an Overt Act, by buying of Arms or Horses, or writing Letters, or any thing of that Nature; and I hope if I speak irregularly, your Lordship will pardon me; I am no Lawyer, and I have no Assistance but my own nonsensical Notes to depend upon for my Defence. *My Lord*, he speaks about Horses that were to be provided, but there is no Proof of that; I never bought any Horses, or borrowed any; nay, nor is there any Proof, that while this bloody Assassination that

he owns himself to have contrived and carried on, was on foot, I had so much as a Horse any where, and that I should be so vain to get Men to engage in such an Expedition with me, and have never a Horse my self, is very strange. The Conspiracy he says was depending a long while and whenever it was to be put in Execution, we were to go expeditiously to work, least it should be discover'd; and 'tis very strange then that I should never have provided the least thing in the World to do it with: neither Arms nor Horse, nor any thing: For there is no Proof of any such thing against me, but only talk as he pleased to swear, to take my Life to save his own: And I hope your Lordship and the Court will declare to the Jury, that here is no Evidence of any Overt Act against me.

My Lord, there is another thing he says against me: He says he had a Note from me by the Name of *Robinson*, to countermand the Orders upon the 15th. *My Lord*, the Truth of that would depend very much upon the producing that Note, then it would be seen whether it was my Hand, and what it contained, and what it related to: For my part I utterly deny I ever sent any such Note wherein there was a word of the King, or of any Fact of this Nature that was to be committed, or any thing relating to it, if it were true that I had written any Note to him at all, and I hope the Jury will consider, and the Court will direct them so to do: For I know not that they are any more skill'd in the Law than my self and therefore I hope your Lordship will give them ample and true Directions, what is Law and what is not Law, and what is Evidence and what is not Evidence; and this cannot be Evidence to affect me at all there being nothing that doth appear or is produced.

My Lord, he says, there were four that were to go with Sir *George Barkley*, that were to be appointed out of each Party; he does not say I named any, nor does he name any himself; but it seems they knew what was to be done; and truly if any thing was to be done; they knew it themselves (and no body else that I know of) who swear to save their Lives, and get a Reward. If the four were to be out of the Party, which he calls his own, he knows them best, and I believe the Party was his own, and the Plot his own too, and no body's else; he does not say that I appointed any one, he only says there were four to be appointed out of a Party, which Party was in *Nubibus*, and so is the whole Design, unless it be in his Head, fram'd there by his own Invention, for it only exists there that *I* know of.

My Lord, these Observations I make upon Capt. *Porter*'s Evidence: The next Witness is Mr. *de la Rue*, and he is a very good Evidence indeed, if hearsay be to be believ'd; he says *I* was very shie of discoursing with him about it, that *I* told him it would come to Nothing, without saying what would come to Nothing, not that the Plot would come to Nothing, for there was nothing at all spoken of any Plot, much less of a Design to Assassinate the King. This is all that he says, as to me, of his own Knowledge, all the rest relating to me is but what Capt. *Porter* told him. But to begin with the beginning of his Evidence, he says one Thing which is very odd, that at the *Rose Tavern*, the last Year, there was a Consultation about carrying King *William* away into *France*, in a Vessel alive, and that Sir *William Perkins* ask'd him whether he would go along with me to *Deale*, to procure a Vessel to carry the King over; he might as well have ask'd him to go with me to *Constantinople*, or any other place in the World, as to *Deal*, and about any other Employment as that, A pretty sort of Thing, that *I* should go to *Deal* to hire a Vessel to carry the King over into *France*; *I* that know no Sea-man, or any Master of a Vessel at *Deal*, that *I* should be imploy'd to hire a Ship before the Design was form'd as he says it was not come to an Head. If we had got the Prince of *Orange* into our Power: if we had King *William* in our Power how was it possible we should have ever carry'd him to *Deal*, *I* cannot but think any one would believe us Mad-men to entertain such a Chimera in our Heads. What nonsensical Stories are all these, that we should carry King *William* to *Deal*, and *I* hire a Ship to Transport Him to *France*; *I* hope the Jury, and all that hear it, will consider what ridiculous Stuff, these Men talk of, as Evidence against Men for their Lives,

Then

Then he talks of my coming in a Coach to the *Nagg's-Head* Door, where *I* was very shie of letting him see me, and afterwards when *I* came out, ask'd him to go up into the Company; but he was Angry that they had deny'd to admit him before, and so would not go up: What a strange sort of a contradictory Story is all this; here was a Conference it seems appointed the Night before to be at that place, when Capt. *Porter*, and Capt. *King*, and Mr. *Knightly* were just come from viewing the ground, and were to make their Report, and *Porter* told him of it, and yet they would not admit him, and *I* was shie of him, and yet ask'd him to go up: What contradictory Nonsence is this? it must needs be look'd upon as improbable or impossible to be True, that *I* should ask him to go up into such a Company, where such a mighty Conference was to be had about such a great Transaction, when *I* had shewn my self apparently shie of him, by falling back in the Coach, as being unwilling to let him see me; *I* hope the Jury will consider, the self Contradictoriness and improbability of such Evidence. Then there is another thing, and that is, what he says Captain *King* said, he did not believe it would come to any thing, because he did not like me as being no Souldier, for I was for keeping out of Danger, and having an easie Post: if he means I had no mind to be in a Plot, he was in the right of it, for no Man in his senses would ever be engaged in any such desperate Designs, where there is such apparent Destruction in view; so I cannot apprehend what there is in that of any Objection against me, or any Proof that I had a Hand in this Plot, because I desired to keep out of Danger. It was said that I was to have attacked the King, with Sir *George Barclay*, but Captain *Porter* says, we were to be together, to attack the Guards; and both can't be True, nor indeed is either of them true, but a figment and invention of their own: Then he says he ask'd *Keys* for a good Sword, and he told me I had a very good one: 'tis true, I had a Sword, I always wore one, but it does not follow that that was to be employ'd upon such an Enterprize as this. And then he tells you a Story again of Captain *Porter's* having a broad flaming Two edg'd Sword. But what is all this to the Purpose? Does this prove any thing against me, that I consented to, or was engag'd in any such bloody Design as this. He saith, That on *Wednesday* he came to me, and ask'd me of the Affair, how it went on; he doth not say what the Affair was, nor he doth not say it was about killing the King; nor indeed is it probable it should be, for he says I was always shie of him and that he could never get any Intelligence but from Captain *Porter*. He saith I told him it was a Thing would not admit of being delay'd, and that only Three People should know such a Thing, but still he doth not tell you what this Thing was, and therefore I do not apprehend how this should affect me, as Evidence of my intending to Assassinate the King. He saith he had it from Capt. *Porter*, that Mr. *Chambers* was an orderly Man; a Word I do not understand, to convoy Intelligence to me; and that *Durance* was an orderly Man, to convey Intelligence elsewhere: Still this is all but what Captain *Porter* told him, and there is no Proof that I sent Mr. *Chambers* any where; *Chambers*, I acknowledge I know, he is a poor Man, and my Lord Chief Justice *Treby*, I suppose, cannot but remember that he was in Prison, and try'd before him, upon the Account of Pyracy; I must needs say, I thought him an honest Man, because he had serv'd with me in *Ireland*; I knew he was in great want, and therefore I gave him his Diet and Lodging; there is no Proof that I furnished him with Money, but I acknowledge I did with Bread and Drink, to keep him from starving; that I think was an Act of Charity, but it cannot be interpreted, nor is there any proof to warrant it, that it was with any ill Design, or that I gave it him to hire him or engage him to any such purpose; *My Lord*, they would make it as if the persons that were intended to be imploy'd in this pretended *Plot*, were to be regular Troops, and to have Courts of Guard, and to be dispos'd of into Quarters, and this was to be done by these orderly Men: I profess *I* know not what to make of it, it is such a Medley, a Fancy, and a Chimera, that it is perfectly unintelligible;

Chambers

whether theſe were to be General Officers, or private Centinels, or what. Then *My Lord*, he ſaith *Cranborne* brought a Liſt from me to Captain *Porter*, with *R. C.* at the Bottom: *Firſt*, that does not prove that it was my Liſt, nor doth that *R. C.* being at the bottom of the Liſt, make me a Partner in this Conſpiracy. Then he ſaith that *Cranborne* came to the *Blue Poſts*, as from me, to acquaint them of the Diſapointment, becauſe the King did not go out that Day: Surely, *my Lord*, I need not trouble you with ſaying any thing, to this, for it is all, as to me, but Hearſay; and what am I concern'd in that which other People talk among themſelves? though they do uſe my Name, how can I help that? *My Lord*, he ſaith himſelf that he intended to diſcover this Conſpiracy a Year a go, but the thing failing then, which how ridiculous it was I obſerv'd before, he let it alone for that time; but when I met him at the *Nag's Head* Door, and he was ſo angry for their not admitting him into their Company, which was Three Weeks before this Deſign they talk of was to be Executed, he had a Mind to go to the Secretaries, and get Warrants and Meſſengers to Apprehend us; and he ſaith he hath often come to me, to ask about the Affair, as he calls it, but I was ſtill reſerv'd and ſhie, and told him nothing would come of it. From all this I would obſerve that I have very good Reaſon to look upon him to be no Evidence not only for the ſame Reaſon that I objected againſt Mr. *Porter*, that by his own Acknowledgment he is *Particeps Criminis*, but his coming to me after he reſolved to diſcover, plainly declares, that he ſet himſelf to be a Trapanner, and no Trapanner, can in the Judgment of any honeſt or underſtanding Man, be a credible Perſon as an Evidence to take away any Man's Life: I am ſure what he ſaith of my ſhyeneſs to converſe with him, and his own frequent Attempts to converſe with me, ſhews plainly, he was willing to Trapan me, for ſo he himſelf ſaith. He came to me ſeveral times, and took me a ſide, to ask how the Affair went on, but he did it only to enable himſelf to make the better Diſcovery, which makes him Ten Thouſand times worſe, than if he had only gone at Firſt and told what he pretends he knew, and afterwards forbore the Company Beſides, *My Lord*, as to Trapanning, I have read in a Book of Sir *Robert Atkins*, that to be *Particeps Criminis*, proves a Perſon to be a bad Man, and conſequently not ſo Credible, eſpecially if it can appear the Witneſs has Trapan'd the Priſoner into the committing the Crime; then the witneſs will appear to be guilty of a far higher Crime than the Priſoner, and therefore ought not to be believ'd as a Credible Witneſs againſt the Priſoner, for he is a Credible witneſs that has the Credit of being a good and honeſt Man, which a Trapanner cannot have; and this Trapanning proves withal that the Trapanner did bear a Spight, and Malice againſt the Perſon Trapan'd, and intended to do him a Miſchief, and deſign'd to take away his Life: Shall ſuch a one, *ſays he*, be a Credible Witneſs, and be believ'd againſt him? *God forbid!*

My

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My Lord, as to Mr. *Pendergras*, who is the next witness, I do not take myself to be much concern'd in all that he saith, I think I have seen him but once of a great while, and that was on the *Wednesday* or *Thursday* [illegible] was taken up; but, *my Lord*, I have this to say to his Evidence, I desire your Lordship to observe I was not in the Proclamation, though he was; they took Occasion to have me secur'd as a Colour, or to save Expences, I suppose, while they themselves went out of the way, to have their Names put into the Proclamation, that some Body might colourably take them, and get the King's Money. All that he saith of me, is, that *Cranborne* brought Messages from me: One Time I writ a Note, Sign'd *R. Robinson*, another Time I sent a List subscrib'd *R. C.* and that *Porter* shew'd him them both, but all this is but hearsay, still out of the Mouth of *Porter*, and can be no proof at all against me. He saith upon the Disappointment, he and they went to *Epsom*, which to me seems a very remarkable Thing; for if he say true, it is plain this was before by him discover'd at Court; and to me it shews that he had a strong Design of getting Money, and taking away Peoples Lives upon that Account; and that Captain *Porter* was in the same Design: For *de la Rue*, saith Captain *Porter*, ask'd him to go with them, as well as *Pendergrass*; now, can it be suppos'd that these Three should agree to go together, unless they were in a Combination, as it appears they now are: and I cannot but think the Court and the Jury will think it reasonable to believe; for if I was in a Plot of such a Nature as this, and should hurry out of Town after I had discover'd it, with Three or Four of the People that were concern'd in it, and some of them afterwards pretend to be Discoverers too, no body in the World can believe but they contriv'd the Thing amongst themselves, and went out of Town only for a Colour, that they might be put in the Proclamation, and pretend to be taken, to entitle themselves to the Reward.

L. C. J. Holt. Really, Mr, *Charnock*, I am loath to interrupt you in any Part of your Defence, but I do not understand what you mean by this, and I very willingly would understand you if I could.

Charnock. *My Lord*, I say, I look upon it, that they were all combin'd together in a Design to get the King's Money, and take away our Lives; that *Porter* should desire them to go with him into the Countrey, and particular Mr. *Pendergrass*, who discover'd this to the King; and then that he should agree to go with him.

L. C. J. Holt. Truly I do not understand the Force of your Argument; that because upon the supposed Discovery Captain *Porter* went to *Epsom*, and Mr. *Pendergrass* went with him, therefore this must be a Design between them to get the Kings Money, I cannot any ways see how that must follow.

Charnock. Pray *my Lord*, to what End should he run out of Town, upon

the apprehenſion of the Diſcovery, and with Captain *Porter* too, when he actually had got the King's Promiſe that he ſhould be ſafe, and not be a Witneſs, unleſs it were a Combination between them, in order to ſet up as Witneſſes againſt us; to get the King's Money?

L. C. J. I'll tell you why he was willing to go with Captain *Porter*, becauſe he had not a mind that the Diſcovery he had made ſhould be any way known to have come from him; for you ſee how unwilling he was to name Names, and ſo kept Captain *Porter* Company ſtill, as his Friend, reſolving not to be an Evidence againſt him.

Charnock. Well, *my Lord*, after all, *I* hope what he ſaith cannot be look't upon as any Evidence againſt me, becauſe whatſoever he ſaith relating to me is about the Notes and Meſſages that he ſaith were brought to Captain *Porter*, and all of it can amount at the utmoſt to Hearſay from other Peoples Mouths. *My Lord*, the laſt Evidence that *I* apprehend relates any way to me is that of Mr. *Bertram*, and he talks of what *I* ſhould ſay to him upon the *Ninth* of *February*, that I ſhou'd take him into a back Room into my Lodgings, and there tell him, that there was ſomething in hand for the reſtoring King *James*, but there was ſomewhat to be done firſt to take off the Spark, or I do not know what; nor do *I* believe any body elſe doth know how to make any thing of it. *It* is a very improbable thing, that this Matter which was to be ſo great a Secret, and which *I* ſhould ſay was not fit to be communicated to above Three People, at once, *I* ſhould ſend for a private Trooper, for he was no otherwiſe, to communicate ſo great a matter to him; beſides that, *I* cannot, nor, *I* believe, can any body elſe tell what to make of the Words, *Taking off the Spark*, how to conſtrue that to make it an Evidence of an intention to kill the King; it might be probable *I* might ſay there was a Noiſe that King *James* would come, for it hath been in the *Gazettes* and the publick Prints, that there was ſuch an Expectation, and Preparation for it on the Coaſt of *France*; but it is not probable, *I* am ſure it is not true, that *I* ſhould ſay there was ſomething to be done firſt, for the *Taking off the Spark*. Evidence of a thing of this Nature ought to be plain and clear, and diſtinct; He doth ſay nothing that *I* talk'd to him of Killing the King, or of Aſſaſſinating him, or of my asking him to be one in any ſuch thing, and that *I* furniſhed him with Arms, and an Horſe on any ſuch Deſign, but only that he might ride out, and take the Air, and there he ſhould meet with ſome of his Acquaintance: What unaccountably looſe Stuff is all this? It is very ſtrange, *my Lord*, that if I liked the Man ſo well, as I muſt do if I would ſend for him to communicate a thing of this Nature to him, that I ſhould not put into a Method, that he might be one with us in the Execution of it: But there cannot be any thing inferred of that Nature, for which we ſtand accuſed, from any Words that he ſaith were ſpoken. *My Lord*, he doth ſay indeed that he told me, that he had diſpoſed of himſelf otherwiſe; but that is no more certain, nor can be referred to any particular thing than the reſt. He might diſpoſe of himſelf to a Friend, he might diſpoſe of himſelf to his Wife; but what is all that to this purpoſe? And he might indeed if King *James* came, diſpoſe of himſelf to aſſiſt him, or to oppoſe him, or to let it alone; but all this is nothing to the Buſineſs for which we are here to be tryed, it's all looſe, idle, impertinent Talk, and not at all to the Purpoſe: And then he ſaith that afterwards I met him at *Lincoln's-Inn* back Gate, and took him into *Lincoln's Inn*, and told him, there were Warrants out, and we had as good do the Buſineſs preſently. *My Lord*, I do remember I met him at *Lincoln's-Inn* Gate, and it was upon *Saturday* the day before I was taken up, and it was about Twelve a Clock at Noon, and I did hear there were Warrants out, but there never was that intimacy between him and me, that I ſhould deſire him to come to my Lodging, or that I ſhould ſupport him in any ſort. *My Lord*, I have made a few Remarks to your Lordſhip and the Jury, upon the Evidence; I am ſenſible I have given the Court a great deal of Trouble, but I hope you will conſider it is for my Life, and my All, and I hope you will be of Opinion,

that

that the Evidence produced againſt me is frivolous and weak, and that the Witneſſes have a very bad Cauſe of it, ſince all that they talk of, if it were true, is only Diſcourſe, and they are forced to ſupply in Words what they want in Fact.

L. C. Juſtice. Have you any more to ſay, Sir?

Charn. Yes, *my Lord*, I deſire to take Notice to the Court and the Jury, that the Buſineſs of bare Words was never look't upon in Law as an Overt Act to prove a Man guilty of High Treaſon, nor that ſeveral Perſons met together doth prove a Conſpiracy. Theſe Perſons proving that I met with them doth not prove that I was concerned in the Aſſaſſination, nor that I conſented to any ſuch thing; beſides, *my Lord*, I am taxed in the Indictment with buying Arms and Horſes for this Buſineſs, but there is not one Word of it proved, or of my riding out to go and view the Ground, nor any thing that I was to be concern'd about this villanous Act. *My Lord*, if I had bought any Arms, that had not been an Overt Act of it ſelf; it muſt be proved firſt that I bought them with ſuch an intent to employ them about ſuch a Buſineſs, and it neither is nor can be proved that I furniſhed any body with Horſes or Arms, and therefore the bare buying of Arms of it ſelf, as far as I am inform'd of the Law, would be no Proof of an Overt Act. To prove an Overt Act of Treaſon by the buying of Arms, it muſt be proved that I declared ſome way that I bought them with ſuch an intent, or elſe it is no Proof at all; but now if you have no Evidence that I bought any Arms at all, I look upon it that there is no Poſſibility to make that an Overt Act. If you pleaſe, *my Lord*, to bear with me to give you the Trouble of Reading ſome ſhort Notes, which I have taken out of ſome Law Books about Overt Acts.

L. C. Juſtice. No, The Court won't think it any Trouble: Make your Defence as well as you can, and take your own Way.

Charn. My Lord, I hope you will allow what hath been collected out of the Books of Law as to Overt Acts; There is *Hale's Pleas of the Crown* is poſitive in it, That an Overt Act muſt be alledged in every Indictment, and proved, that compaſſing the Death of the King by bare Words, is no Overt Act: Now if bare Words be no Overt Act, why then all the Conſpiracy that is here proved, ſuppoſing it all to be true that is ſaid, it is no Overt Act; for it is all but Words ſtill. And bare Conſpiring is no Overt Act, according to my Lord Coke's Opinion, in his *Third Inſtitutes*, and the utmoſt of all that any of them prove againſt me is, that I did ſay ſo, and ſo, which is but bare Conſpiring. Pray, *my Lord*, let me know upon what Law it is that I am indicted and tryed, I ſuppoſe it is upon the 25 *Edw.* 3.

L. C. J. Holt. Yes, you are, and only upon that Statute.

Charn. My Lord *Coke*, in his *Third Inſtitutes*, ſaith, The Open Act muſt be manifeſtly proved, if divers conſpire the Death of the King, and the Manner how, and thereupon provide Weapons, Powder, Poiſon, ſend Letters, or the like for the Execution of the Conſpiracy, or preparation be made by ſome Overt-act to Depoſe the King, or take him by Force or by ſtrong Hand, or impriſon him; theſe are ſufficient Overt-Acts to prove the compaſſing the King's Death. But by this it is plain, that bare Conſpiring is not Treaſon, as wanting a ſufficient Overt-act to declare the intention. Now, my Lord, I ſay that in all this Evidence that hath been given againſt me, there is not one Overt-act prov'd of my providing Arms, or ſending Letters, or the like. And the ſame Page of the ſame Book, the Third *Inſtitutes*, Cap. *High Treaſon*, upon the words *proveable attaint*, it muſt be by Overt-act, it muſt be upon direct and manifeſt Proof, not upon conjectural Preſumptions or inferences, or Strains of Wit: So that the ſtrongeſt Preſumptions upon the whole Earth, will never be able to make an Overt-act without plain and manifeſt Proof. And, my Lord, I do inſiſt here is not plain and manifeſt Proof, or any Overt-act, but only Preſumptions in the whole Scene of the thing. I muſt beg the Favour of the Court as to one particular thing.

Your

Your Lordship, no doubt, knows the Law very well. I am here an *Ignorant* Man, unable to Defend my self by the Forms of Law; but I hope your Lordship and the Court will not let me suffer any damage upon that Account. You are always presumed to be of Councel for the Prisoners; and I look upon it as assured, that you will do that justice to Persons in our circumstances, as truly to instruct the Jury how they shall behave themselves in relation to this matter that is now upon enquiry before them. Particularly, my Lord, I desire they may be told plainly and truly, what is *Proof* of an Overt-Act, and what is not; and when your Lordship sums up the Evidence, you will tell the Jury directly and plainly, what is Legal Evidence, and what is not; and then what is sufficient Proof of any one Overt-act or Species of Treason; and that you would not leave it to the Apprehension of the Jury, what they do believe, but inform them really and truly what is Legal Evidence, and what of that sort hath been given to Day. My Lord, here is a strange sort of thing, a Conspiracy, which considered in the general, hath neither Head nor Tail: how many there were to be is uncertain. In the Indictment it said there were forty Men to do this Fact upon the King in his Coach, and for Attacking the Guards. Can it be supposed, that any Man in his Senses would do such an Act as this, without respect to have security for himself and his Family, or those he is concern'd for? I know not how great Wits these People be in other things, but I am sure they shew no Wit in this. I look upon it to be so desperate a Thing. The Guards are at least treble the number, and better appointed; and that forty should go to Assault treble the number, and in divided Bodies too, that were only to mix Fury and Malice with Resolution, to be torn in pieces by the Mobb upon an apparant visible Disappointment. And when we had done this, and made this Attempt, where were we to go? We had no *Asylum* that we can hear of; nor Castle or Fort to Retire to, nor none that were to back or assist us; and I am sure no Man in his Wits would undertake a desperate Attempt without assurance of a Retreat. If *I* was resolved to kill any Man, *I* would propose to my self some place, to which I might repair for shelter and safety when *I* had done. If then we were in our Senses, it cannot be imagined we should ever ingage in so apparently destructive a Design. We ought rather to have been confined to *Bedlam*, than any other place, if we could be thought guilty of so much Rashness and Folly. My Lord, *I* pretend not to make any particular Reflections upon these Gentlemen that have given Evidence here; but only *I* must take leave to say in general, that there are none of them, but that if they have had any Fortunes in the world, their circumstances as to that matter are now much altered; and if any Persons will be Evidence against others for their Lives in hopes to repair those Fortunes, and concerning matters in which they were engaged themselves in, as they do acknowledge, and if it be true, it must be through the desperateness of their Fortunes, it is the most barbarous and inhumane sort of Evidence that ever was given by any that ever had any sense of Honour, and must be a base Reflection upon any who pretend themselves to be Gentlemen. And I hope the King will think them upon that Accountvery little deserving Credit. My Lord, *I* hope your Lordship will please to consider, that what *I* have offered is but what my own sudden Thoughts could suggest to me out of the confused little Remarks *I* have been able to make upon the Evidence; and it is the more confused and immethodical because *I* could have no Councel to assist me. *I* would only put your Lordship in mind once more, of what *I* earnestly desire and insist upon from your Lordship, that you would tell the Jury plainly and truly what Evidence it is the Law Requires to Convict any Person of the Crime, for which *I* stand Accused, what things are necessary to make up that Evidence, what is a Legal Proof of an Overt-act, and what Overt-acts have been plainly and manifestly proved against me in this Case, and to leave the consideration of the Evidence to the Apprehension or Inclination of the Jury. This is all the favour that *I* have to beg of the Court, and *I* hope *I* need not doubt the Justice of the Jury.

L. C. J.

L. C. J. Have you done Sir?

Char. Yes my Lord.

L. C. J. Then what ſay you Mr. *King*?

King. My Lord *I* muſt inſiſt upon a great many things that Mr. *Char.* hath ſaid. But as to what relates to my ſelf, Capt. *Porter* ſaith, *I* went with him and Mr. *Knightley* to view the Ground where this Deſign was to be executed. Truly My Lord, *I* did go abroad with Capt. *Porter* and Mr. *Knightley*; but it was meerly to take the Air, and no other thing. Truly my Lord, *I* have not taken any Notes of the Evidence, nor have *I* had any Councel to aſſiſt me, and ſo *I* am not very capable of making my Defence

L. C. J. Well, have you any more to ſay?

King. As to Mr. *Delarue*, he doth not pretend to ſay *I* did ever tell him of any thing of a Deſign of deſtroying the King: And as to the Sword he ſpeaks of, he knows *I* always wore one, and ever had one.

L. C. J. Well, is this all you have to ſay?

King. And as to Mr. *Pendergraſs*, he ſaith, he ſaw me at the *Roſe Tavern* in *Covent-Garden*, where we diſcourſt ſomething of the matter; but he tells you not what that matter was, nor what the diſcourſe was. And as to Mr. *Boyſe*; he doth not tax me with any Deſign of Killing the King: Nay, he ſaith, I did not mention any ſuch thing to him. And as to the matter of an Overt act, what is an Overt-act and what not, and what is good Proof of it and what not, *I* muſt refer to your Lordſhip and the Court.

Char. My Lord, I beg your Pardon, there is one thing, *I* forgot to offer to your Lordſhip, There is no Place laid in the Indictment, nor no ſet Number of Men aſcertain'd.

L. C. J. At preſent you are out of time, for that you might have ſpoke to it before the Evidence was given, or you may ſpeak to it after the Verdict is brought in, if there be occaſion.

Char. My Lord, *I* am ignorant in the Forms of Law.

L. C. J. If you will obſerve any thing out of the Evidence, you may, now is the time.

Charn. My Lord, *I* think the Evidence is inconſiſtent with the indictment: For the Indictment doth ſay poſitively, that there were Horſes and Arms bought and provided: Now if this be an Eſſential Overt-Act, as *I* apprehend it is according to my Lord *Cooke*, to prove the compaſſing the King's Death, then there hath been no Evidence to ſupport this indictment, for there is no Proof of the buying of any Horſes or Arms.

L. C. J. They tell you there were Forty provided.

Char. My Lord, I have taken ſome Notes, as well as I could, upon Reading the Indictment, and in the firſt place it is ſaid, that it was agreed there ſhould be Forty Horſe-men Armed of us, *Robert Char. Edw. King*, and *Tho. Keys*; which I take to be Nonſenſe and impoſſible.

Mr. Att. Gen. But there is, *and others* in the Indictment too.

Char. It is *Quadraginti homines equeſtres de ipſo Roberto* Charnock.

L. C. J. And divers others, to the Jurors unknown. May not they make Forty? Thirty ſeven and you three will make Forty.

Char. That *divers others* is ſo uncertain, that no one can tell whether it be five or five thouſand; and I know not what will make an Indictment void, if uncertainty will not.

L. C. J. But your time of Exceptions to the Validity of the Indictment is not now, we are now only upon the Tryal of the Fact.

Char. My Lord, I was adviſed by my Councel that if I could find a flaw in the Indictment, I muſt mention it, and take the Advantage of it before the ſumming up.

L. C. J. You were not well adviſed; for after the Jury is ſworn, we are only to have regard to the Fact, and we are now upon the Tryal of the Fact; and the only thing we have under Conſideration upon the Fact and the Evidence is, Whether upon this Evidence that hath

 been

been given, you are Guilty or not of the Fact that's Charged upon you in the Indictment.

Char. My Lord, I crave your pardon, and *I* hope you will take no advantage of my Ignorance, not being uſed to theſe proceedings.

L. C. J. As to what you ſaid at firſt, that there was no Overt act proved, becauſe there is no proof of buying Horſes or Arms; it is true, that is one Overt act laid in the Indictment, and there is ſome Evidence given of it; but what that Evidence will amount unto will be a further Conſideration by and by.

Char. There was another Obſervation, my Lord, that I have made upon the Indictment, that it is uncertain upon the Word *tunc*; there is no time aſſigned, nor no Place; Pray what time doth this *tunc* refer to?

Mr. Att. Gen. When the King went out.

L. C. J. But theſe things are not proper now, *I* tell you, we are upon the Fact. Mr. *King*, have you any more to ſay? Becauſe Mr. *Charnock* interrupted you.

King. My Lord, if there be any Objection that Mr. *Charnock* hath made, would be of any Advantage to me, I hope you will let me be heard by my Counſel, that I may have the Benefit of it.

L. C. J. I tell you, that is not proper now; you may have the Benefit of any Objection of that Nature, if there be an Occaſion, after the Verdict: Now we are only conſidering the Evidence upon the iſſue, Guilty or not Guilty; and you are now to apply your ſelves to that.

King. My Lord, I think I have anſwered all the Evidence.

L. C. J. Well then Mr. *Keys*, what have you to ſay for your ſelf?

Keys. My Lord, all that I have to ſay is, I was a Servant to Captain *Porter*, and I did nothing but by his Order.

L. C. J. Is that all you have to ſay?

Keys. Yes, my Lord.

L. C. J. Then I muſt tell you, no Man is ſuch a Servant that the Commands of his Maſter can excuſe him for committing High Treaſon.

Keys. I did but obey his Commands.

L. C. J. But *I* tell you again, no Man is ſo much under the Command of his Maſter, as that he ought to obey him, if he command him to commit High Treaſon. *It* is proved you bought Horſes, and he told you upon what Deſign, and you ingag'd in it.

Keys. I did not hear any thing of it. My Lord, my Maſter was pleaſed to Jeſt with me ſeveral times, and he might ſay a great many things that *I* did not much regard.

L. C. J. You were by when your Maſter, as you call him, promiſed Mr. *Pendergraſs* his Muſketoon, and Mr. *King* told *Pendergraſs* he hoped he would not fear breaking the Glaſs-Windows.

Keys. Indeed *I* do not remember any ſuch thing.

L. C. J. And there are ſeveral other particulars ſworn againſt you: But have you any thing more to ſay?

Keys. Nothing but that *I* did what my Maſter ordered me to do.

L. C. J. Have you all done then? if you have any more to ſay, you muſt ſpeak it now, becauſe you cannot ſpeak after the King's Counſel have ſummed up; they muſt have the laſt Word: Have you any Witneſſes to call, or any thing more to ſay?

Charn. No, my Lord, we have nothing more to ſay, but leave it to your Lordſhip intirely.

Mr. Soll. Gen. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, I am of Counſel in this Caſe for the King againſt the Priſoners at the Bar, and *I* think the matter hath been fully proved as Mr. Attorney at firſt opened it, that there was a Deſign of an invaſion on the Kingdom from *France*, and of an inſurrection within this Kingdom, to abet that invaſion, and

as

as an inducement to both, of a barbarous and abominable Aſſaſſination upon the Perſon of the King, and that the Priſoners at the Bar had an hand in this Conſpiracy.

Now, Gentlemen, *I* muſt tell you, That for the two firſt parts of this Deſign, the invaſion and the inſurrection, we have given you no other Evidence now, but ſome ſhort Hints, that ſuch a thing was intended; and we did it purpoſely for this reaſon, becauſe the Priſoners, tho they were concerned too in thoſe other parts of this Plot, yet they are not now indicted for that matter, but only for a direct Conſpiracy to Murther and Aſſaſſinate the King; we have abundance of Witneſſes to prove the other parts at ſeveral times againſt a great many as well as them; but we confine our ſelves now to this particular, as it ſtands charged againſt theſe Perſons in the indictment.

Gentlemen, There is an Overt-Act alledged in the Indictment, as it by Law is neceſſary to do, to prove the Treaſon, which is Compaſſing the Death of the King; and it is by Law a good Overt Act, That they did at ſuch a Place, that is to ſay, the Pariſh of *St. Clements* in the County of *Middleſex*, on the 10th of *February* laſt, Conſult, and Agree, to carry on ſuch a Deſign; now it is not material, as my Lords the Judges will tell you, in point of Law, to prove all the ſeveral Conſultations to be in that Pariſh, nor to have been upon the day alledged in the Indictment; for if it be any day before or after the times ſpecified in the Indictment, ſo it be before the Indictment preferred, and if it be at any place within the County wherein the Indictment is laid, it is ſufficient; the thing that is material to be proved, is, Whether they did meet upon ſuch a Deſign before the Indictment, within this County.

This Deſign, Gentlemen, we in Law call High Treaſon; the higheſt Crime that our Law, or the Law of any other Government, takes notice of, and it very well deſerves to go under that name, for it tends to ſubvert the very foundations of the Government, without which no Subject is ſafe; and to bring all into Confuſion and Deſolation, by taking away the Life of the King, who is the Head of this Government; which Life the Law makes ſacred above all others, becauſe without that be ſafe, there can be no ſafety to any particular perſon.

Gentlemen, we have proved this Bloody Conſpiracy moſt fully againſt all the Priſoners at the Bar: I will not take up ſo much of your time, as to repeat every particular of the Evidence that hath been given, but only ſhortly remind you of what hath been materially ſaid againſt each of them by the Witneſſes that have been produced.

Againſt Mr. *Charnock* there is firſt Mr. *Porter*, who hath ſworn, That he and others met and conſulted about this Deſign, agreed upon it, and on the ways and methods for carrying it on; and he names the Places where, and the Times when thoſe Conſultations were had; then there is Mr. *De la Rue*, who ſaith, Mr. *Charnock* askt how the Affair went on? and he anſwered, he was afraid it would come to nothing, that ſhews he was willing it ſhould come to ſomething, though perhaps he might be fearful whether it would take place or no. Mr. *Pendergraſs* ſaith, Mr. *Charnock* ſent a Note to Mr. *Porter* to countermand the Orders for the 15th, ſubſcribed by the name of *Robinſon*; but that is only a concurring Evidence to that of Capt. *Porter*, who ſaid before, he had ſuch a Note; but *Berthram* tells ye, that he askt him if he would be one in the Deſign to take off the Spark? And that after he heard Warrants were out, he would have had him joyned in the putting it in immediate Execution, and aſſured him there would be ſafety in ſo doing.

Againſt Mr. *King*, there are the ſame Witneſſes, Mr. *Porter*, and Mr. *De la Rue*, who tell you of the Diſcourſes at Captain *Porter*'s Lodgings, where Mr. *Pendergraſs* was likewiſe, who tells you the times, *Viz.* The 15th and 22d of *February* laſt, the days when this wicked Deſign was to have been put in Execution, and there they conſulted about carrying it on. Mr. *Boyſe* likewiſe tells you of the Diſcourſe he had with *King*; he would not indeed directly tell him what the Deſign was, but Mr. *Boiſe* did ſuſpect what it might be, for *Mr. King* told him *Sir George Barcley* was come, and *Mr. Boiſe* ſhould have a Horſe, and make one, and it would be ſoon over.

Then

Then for *Keys*, there are three positive Witneſſes againſt him; there's his Maſter, as he calls him, Capt. *Porter*, who ſwears, That *Keys* knew of it, and conſented to it. Mr. *Pendergraſs* ſaith, *Keys* was one that met at Capt. *Porter's* the 15th of *February*, to put the Deſign in Execution that day. *De la Rue* tells you, *Keys* was in the Chamber at that time, and in other Places, conſulting about it, and ſo he muſt needs know of it, and conſent to it. So that, Gentlemen, if you believe theſe Witneſſes, as I ſee no reaſon offered to the contrary, we have moſt manifeſtly proved upon them all three, the Matters charged in the Indictment.

As to what they ſpeak of the Witneſſes being Trapanners, and Swearing them out of their Lives to ſave their own; it is plain, the Priſoners deſigned to Trepan the King out of his Life, and ſome the Priſoners would have Trepanned to have joyned with them in that Deſign, who honeſtly and honourably diſcovered it, and now the Priſoners danger is a ſafety to the Nation.

Gentlemen, They argue againſt the belief of this Conſpiracy, from the improbability that any Perſon ſhould be ſo deſperate to engage in ſo wicked a Deſign. Truly had this been a matter that had been only talked and diſcourſed of once, that might have been the better alledged; but when there have been ſo many Meetings at ſeveral times and places, and ſuch Methods taken for the putting this Conſpiracy in Execution, and after a diſappointment, one day put off to another; nay, and as it hath been prov'd, it hath been a Project that hath been Tranſacting for ſeveral Years, from one Year to another, and all this made as manifeſtly evident, as proof by Teſtimony can make it; the Objection of improbability will ſoon vaniſh into nothing; and I hope you will think, as I believe all the World doth, or will after this Tryal, That there hath been ſuch a barbarous bloody Conſpiracy, as in the Indictment alledged, and that theſe Perſons are guilty of it, and that you will give your Verdict accordingly.

Mr. Conyers. My Lord, I would only add to what Mr. Soliciter hath ſaid, ſome few Obſervations that have been omitted of the Evidence that hath been given againſt the Priſoners.

The Treaſon charged, is a Deſign of Aſſaſſinating the King's Perſon, the Overt Acts laid in the Indictment are ſeveral Meetings and Conſultations in order to the bringing it to effect, and the providing Men and Horſes to put it in Execution.

This Charge we have fully proved againſt the ſeveral Priſoners at the Bar by two Witneſſes at the leaſt, and it is manifeſt that they were all concerned in the ſeveral Meetings and Conſultations for the carrying on this Deſign.

As for Mr. *Charnocke*, Mr. *Porter's* Evidence is very full as to his providing Arms and Horſes; and there is beſides, Mr. *De la Rue*, who tho' he met him at the Tavern, and not being admitted at firſt, took it ill, yet afterwards at

two

two Meetings he did diſcourſe with him about it; and *Bertram* gives an account how he would have engaged him in it. As to Mr. *King*, there is not only Captain *Porter*, who teſtifies that he dined with him the fourteenth of *February*, where they did diſcourſe of this intended Aſſaſſination, but *De la Rue* likewiſe, that ſaid there was a Meeting appointed for *Porter* and *King*, and another, to go and take a view of the Ground, and the Priſoner himſelf owns he did ride out with them, but he would have it only to take the Air; Captain *Porter* tells you it was to ſee which was the moſt convenient place, and that the place pitched upon was the Lane between *Branford* and *Turnham-Green*.

And for *Keys*, there are two poſitive Witneſſes, Cap. *Porter* and Mr. *De la Rue*, that he was at the *Blue-Poſts*, and at Mr. *Porter*'s Lodgings when this matter was conſulted of, and particularly that he came and gave an account of the diſappointment the ſecond day, upon the Guards coming back.

Beſides, Mr. *Porter* gives an account in general of ſeveral that were to provide Arms, Horſes and Men; and Mr. *Bertram* proves that Mr. *Chernocke*, told him the deſign was to take off the Spark, and then the time would come, that *King James* would come back quietly. Mr. *Boyſe* Swears, *King* told him on the 14*th* of *February*, that he was to go out upon a deſign the next day, and that he ſhould have a Horſe provided, which next day the 15*th*, is by all the Witneſſes agreed to be the firſt time appointed for the Aſſaſſination; and Mr. *Bertram* adds, that he met with *Chernocke* the 22*th*, who told him Warrants were out, and it was beſt to go and do the buſineſs preſently, and deſir'd him to come to his Lodgings, and he went to his Lodgings and found ſeveral Perſons there ——

Chernocke. He does ſay no ſuch thing, Sir.

Mr. *Att. Gen.* He does ſay that Mr. *Chernocke* deſired him to come to his Lodgings.

Mr. *Conyers*. As I apprehend him, he ſays he went thither in the Evening on the 22*d*.

Mr. *Att. Gen.* He ſays Mr. *Chernocke* would have had him come, but he did not, the time that he was at his Lodging was before.

Mr. *Conyers*. My Lord, if I miſtake, I beg pardon of the Court and of the Priſoner too.

L. C. J Holt. As I take it there is no coming to his Lodging at all but the 9*th* or 10*th* of *February*.

Mr. Att. Gen. He ſays the 9th of *February* he met with *Trevor*, who carried him to *Chernocke*'s Lodgings, and then he would have engaged him in the Deſign of taking off the Spark; the Meeting of the 22d was afterwards in *Lincoln's-Inn*, and there was no going to the Lodging that day.

Mr. *Cooper*. My Lord, I am very loath to take up any of your time; but I would beg the favour to obſerve two or three Paſſages relating to this matter,

which have not been obſerved yet; and ſhall only mention ſo much as I think has been omitted.

The Defence that has been made, has been principally by Mr. *Charnocke*; and upon his Defence, it ſeems, the reſt do depend; therefore I would beg leave to make ſome few Remarks upon the Defence that he has made: He ſays, That all the Evidence is but hear-ſay, as to him, and no Overt Act of his own proved; but, my Lord, I queſtion not, if the Evidence be looked into, it will appear ſufficient not only to prove him guilty beyond all contradiction, of all that is charged upon him in the Indictment; but particularly, that he was the principal Agent (under Sir *George Barclay*) in carrying on this whole Conſpiracy.

For Captain *Porter* tells you, That *Charnocke* firſt acquainted him with Sir *George Barclay's* coming over with the Commiſſion; that *Charnocke* brought Sir *George Barclay* to the Lodgings, where they both lay; that they had ſeveral Meetings, at which he was always preſent, and a main Promoter of the Deſign; that he agreed to find a principal Quota of the Perſons that were to be concerned; particularly, that he was to find Eight Men, and ſeem'd always moſt zealous for the Execution of it.

Then as to Mr. *King*, it is plain that *Knightly*, and Captain *Porter*, and he, went to view the Ground; and Mr. *De la Rue* tells you what report *King* made of that View; that with great joy *King* acquainted him they had found the rareſt Place in the World for the Execution of their Deſign, a Wood hard by the King's Houſe at *Richmond*, and then he opens the whole manner of the Ambuſcade, and the Deſign.

Charnocke. It is at the liberty of any body to ſwear what they pleaſe; but I hope the Jury will conſider the nature of the Evidence.

Mr. *Comp*. Mr. *De la Rue* tells you further ſomething more than hear-ſay as to Mr. *Charnocke*; That he aſkt Mr. *Charnocke* about the matter, what was like to come of it? And he anſwered him, that he feared the Succeſs of it, for that a thing of ſuch a nature was not to be truſted to above three; which could not refer to the intended invaſion, and the inſurrection; for as to that it is plain from the nature of the thing it ſelf, that it muſt be communicated to a great many, or elſe they could not be ready to aſſiſt in it. And therefore it is evident it was the Aſſaſſination which he was in haſte to have Executed, ſaying it had been delayed too long, and that was as dangerous as communicating it to too many.

My Lord, I ſhall make my words good to you, and rather than take up your time in making repetition of what has been ſaid, *I* will chooſe to break my method, and omit what might be further obſerved: It is true, it was a miſtake of the day as to *Bertram's* Evidence of his going to *Charnock's* Lodging, but that is not material, for it is in Proof he did go to his Lodgings the 8th or 9th of *February*, and there *Charnock* told him that King *James* was a coming; but there was a Service to be done firſt, To take off the Spark, and then the King would come in quietly, if that deſign took effect, it would anſwer his Expectation; he was to ride out to take the Air, and meet ſome of his Acquaintance, and after all was over, we ſhould be very happy. The words indeed were ſomething dark, but yet the intent and meaning of them are pretty manifeſt, not only from the Words to take off the Spark, but becauſe, this action, whatever it was, was to precede the Invaſion of King *James* with the *French* Forces, and was to be done in order to it, and therefore could not be meant of it, nor of joyning with it.

My Lord, I ſhall trouble you no further, but ſubmit to your Direction.

L. C. J. *Holt*. Gentlemen of the Jury, theſe three Perſons at the Bar; *Viz. Robert Charnock*, *Edward King*, and *Thomas Keys* ſtand indicted of High Treaſon, for conſpiring, compaſſing, and imagining the Death and Deſtruction of the King, and that in a very and barbarous manner, by way of Aſſaſſination; and the Indictment charges them, that they did

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GUILDHALL LIB. LONDON

meet and conſult with divers other Traytors unknown to the Jurors, and there did reſolve upon this Aſſaſſination, and Horſes and Arms were prepared and provided for the Execution of it.

The Queſtion, Gentlemen, that you are to try is, whether theſe Perſons now ſtand not thus accuſed are guilty of this Crime or not? And you have heard a very long Evidence, five Witneſſes have been produced, and they have given upon this occaſion a very large Account of the whole Tranſaction, which I will obſerve to you as briefly as I can.

In the firſt place Gentlemen you are told how there had been a Deſign forming even for ſome years for the reſtoring of the late King *James*, and the depriving and depoſing of this King. It ſeems it was a deſign before the buſineſs of *Cape la Hogue*, which you remember very well was in the year 1692, about the time of the burning a great part of the *French* Fleet by Admiral *Ruſſel*, but this deſign, tho' it met with ſeveral diſappointments, yet did not die, it had its ebbings and its flowings, ſometimes it was higher, and at other times it was lower, and in *Winter* was twelve months it began to be more vigorouſly proſecuted then at any time before, ſince the *La Hogue* buſineſs; and then there was a Reſolution framed of attempting the Perſon and Life of the King, which appears by Captain *Porter*'s and Mr. *De la Rue*'s teſtimony and great hopes were conceived amongſt them, that it might be effected before the King went over into *Flanders*; but it ſeems they wanted a Commiſſion from Abroad (which they thought neceſſary as an Authority for them to act under) which not coming in time, the King went over to *Flanders*, and ſo for that time the Execution of it was deferred.

Gentlemen, after the King's return from *Flanders*, the Proſecution of this Deſign was reſumed, and intimation was given that a Commiſſion was brought over by Sir *George Barclay* from King *James*, which was to make War upon the Perſon of King *William*, who was called therein, as you may ſuppoſe, the Prince of *Orange*: And you are told by Captain *Porter*, that at that time he and Mr. *Charnock* lodged together in one Houſe in *Norfolk ſtreet*, and that Mr. *Charnock* told him Sir *George Barclay* was come with ſuch a Commiſſion from King *James*, and imparted to him the deſign of Aſſaſſinating and Murthering the King, and that would be the readieſt way to bring home King *James*? He asked Captain *Porter* whether he would engage himſelf in the matter. It ſeems Mr. *Porter* did freely and readily engage in it, and was in good earneſt; and therefore there were ſeveral Meetings at ſeveral places, in order to conſult and contrive how they might bring it to paſs.

Gentlemen, you are further informed, That there were ſeveral Meetings at the *Globe-Tavern* in *Hatton Garden*, another at the *Naggs Head* in St. *James ſtreet* in *Covent Garden*, and at the *Sun Tavern* in the *Strand*, and that two of the Priſoners at the Bar, Mr. *Charnock* and Mr. *King* with divers others, were at thoſe Meetings, and *Keys* was at ſeveral of them, and there it was agreed and reſolved, that the King ſhould be Murthered as the beſt way to bring in the late King.

This being ſettled and reſolved upon as fit to be done, the next conſideration was in what manner it might be effected, and two ways were propoſed, one by way of Ambuſcade on the other ſide of the Water near the King's Houſe at *Richmond*, the other in the Lane that leads from *Brentford* to *Turnham Green*, upon the King's return from *Richmond*, ſome Evening; for it ſeems it is uſual for the King to go to a Houſe he has on the other ſide of the Water, to divert himſelf once a Week upon the *Saturday*, and to return in the Evening.

Theſe two places being propoſed, the one on this, the other on the other ſide of the Water, there was a difference in opinion among the Conſpirators, which of the places would be the beſt and moſt proper: And in order to ſettle that Matter, it was reſolved upon, that ſome Perſons ſhould be ſent to view the Ground in both Places and make their Report to the reſt; and the Men agreed upon were Captain *Porter*, and Mr. *Knightley*, to whom Mr. *King* added himſelf;

himſelf, and accordingly they did go out of Town together to take a View of theſe Places.

Here the Court was interrupted by Mrs. King *the Priſoners Mother, who in a very outragious violent manner, got into the Court; but being removed, the* Lord Chief Juſtice *proceeded.*

L.C.J. Holt., Gentlemen, I was ſaying that this View was taken by thoſe Perſons that undertook it; and the Night of that Day they had viewed the places, upon their return, they made a Report to their Accomplyces, and thereupon it was reſolved to relinquiſh the Ambuſcade, and that the attack ſhould be made in the Lane that Leads from *Brentford* to *Turnham-Green*.

The time that was fixt upon for this Execution was *Saturday* the 15th. of *February*: there were two Men that were appointed to lodg at *Kenſington*, whom they called Orderly Men, a title that they gave them: theſe were to give notice at what time the King and the Guards went out, the one was to give notice firſt of the Guards going, the other was to give notice when the King went: when notice was brought them that the King was gone abroad, the Conſpirators were to be ready to go after in ſmall numbers, and were to be quartered and diſperſed in the ſeveral *Inns* about *Brentford* and *Turnham Green*, to be gathered into the ſeveral Bodies, upon notice of the Kings Return, when the King came over, then they were to make the Attack in this manner. Capt. *Porter* and Mr. *Charnock*, with one *Rookwood* were to attack the Guards and Sir *George Barclay*, and his Party, were to come up to the Kings Coach, and fire into it, and kill the King, and every one that was in it; and of that Party Mr. *Pendergraſs* was deſigned to be one, and he was to have a *Muſketoon* from Capt. *Porter*, that would carry ſeven or eight Bullets: Theſe Conſpirators, and the Perſons that were to be concerned, were in all forty, or ſome few more in number.

But, by great providence, this Bloody Deſign was diſcovered, as was told you, by one of the Witneſſes Mr. *Pendergras*, a day or two before it ſhould have been put in Execution; and ſo His Majeſty did forbear going out that *Saturday* the 15th. But they having notice that the Guards were gone, and after that receiving an account that the King did not go, it very much alarm'd theſe Conſpirators, but notwithſtanding this, as you have been told, they were reſolved not to lay aſide the proſecution of this Deſign, but were rather bent upon Executing it the next opportunity that ſhould offer it ſelf, for which purpoſe divers of the Conſpirators did meet together, and did conſult whether it was fit further to proceed, particularly upon the *Friday* the 21th. day of *February* at the *Sun Tavern* in the *Strand*, divers of them met, and there they had diſcourſe of the matter, and were troubled at the diſappointment, and were Reſolved to purſue it, and for that purpoſe, agreed to be in a readineſs the next Day, and as ſoon as they ſhould have notice, that the King was gone from *Kenſington*, they would proſecute it in the ſame manner, in which they had formerly agreed.

It ſhould ſeem, ſome of the men they had engaged were gone off, and others were provided in their ſtead, but there was another full diſcovery made, before that, by Mr. *De la Rue*, by which their wicked purpoſe was a ſecond time diſappointed.

Gentlemen, upon the diſcovery of this deſign, it was thought very fitting to take all poſſible care, for preventing ſuch a diſmal ſtroke, and for puniſhing ſuch hainous offenders, there was a Proclamation iſſued for the Apprehenſion of a great many of them that abſconded, which had a very good effect, by the taking of ſeveral of them, beſides thoſe that were taken up by Warrants before, and theſe three Priſoners now at the Bar, are Indicted for this Horrid and Traiterous Conſpiracy, and for purſuing this wicked Deſign, and are now upon their Tryal for it.

Now

Now, Gentlemen, you have heard the Evidence, which you are to conſider of in relation to the Priſoners, and how far they are affected by it. I muſt tell you, that Cap, *Porter* gives a full Evidence againſt all three, he tells you how, and in what manner they were all engaged, and what parts they had all in the proſecution of this Bloody Enterpriſe. As for Mr. *Charnock*, he ſeems to have been a remarkable Perſon in almoſt all the parts of it, a great carrier on and promoter of it, was to be an actor in it, and provide his number of Men: And it ſeems he was a Perſon much truſted by Sir *George Barclay*, and he ſpoke to Mr. *Porter* of a Commiſſion that Sir *George Barclay* brought with him from K. *James*, which was to levy War upon the Perſon of King *William*, which it ſeems was underſtood to authorize them to aſſaſſinate the King. Mr. *King* went to view the Ground, and *Charnock* and he were at the ſeveral Conſultations, and *Keys* was at *Porter*'s Lodgings, and at divers other Conſults, when the carrying on of this Deſign of aſſaſſinating the King was debated and reſolved upon. Mr. *Porter*'s Evidence you have heard at large, and I doubt not you take good notice of it, and the King's Council have repeated the moſt material parts of it, therefore I need not do it again. And as to Mr. *Charnock*, you have heard what Evidence is given by *De la Rue* and *Bertram*; for tho' Mr. *Charnock* ſays all that is teſtified by the other Witneſſes, is only Talk and Diſcourſe, and that bare words are not High Treaſon, but there muſt be ſome Overt Act; therefore you are to conſider particularly what the other Witneſſes ſay againſt him, and whether another Overt Act is not proved. *De la Rue* (who was one of the Diſcoverers, and (as he tells you) he reſolved ſo to be ſo ſoon as he could get a perfect knowledge of the whole Deſign) to inform you, that between the 15th. and the 22d. of *February*, he met Mr. *Charnock*, and enquired of him, how the buſineſs went, to which *Charnock* returned anſwer, That the Deſign did languiſh, ſaying, That People were not ſo warm as formerly, and did believe the King had Notice, for that he had not been abroad on *Saturday*; that too many were acquainted with it, and therefore thought it might come to nothing: but the main Buſineſs which was the Landing of King *James*, would be ſpeedy; and though the Diſcourſe may be reckon'd only Words, yet they do import, at leaſt acknowledge, to the carrying on this Deſign before that time.

But then conſider what you are told by *Bertram*, another of the Witneſſes, That he being inform'd by *Trevor*, that Mr. *Charnock* would ſpeak with him; he thereupon went to Mr. *Charnock*'s Lodgings, where *Charnock* took him aſide into a Back-Room, and told him that King *James* was a coming, and there was great hopes of reſtoring him; but there was ſomething to be done to facilitate it, which he would do well to join in: And when he aſked what it was, *Charnock* told him, he muſt go abroad and take the Air, where he would meet with ſome of his Acquaintance; and there was no way to effect it, but by taking off the Spark; and by doing that thing, it would moſt probably be brought about,

that King *James* ſhould be reſtored. Now, though it was not directly ſaid, they were to kill the King; yet it is manifeſt what was meant by it. For the taking off no one Perſon in *England*, beſides King *William*, could conduce to the Return of the late King. And for his Encouragement, he told him further, That if *Berthram* would undertake the doing of it, it would anſwer his Expectation. And then you are told again by *Berthram*, that he met *Charnock* at *Lincolns Inn-Gate*, upon that very day that it was laſt to have been executed, which was the 22d of *February*, where *Charnock* told him he ſuſpected a Diſcovery was made, and that there were Warrants out againſt them; and that therefore the beſt way was, to go immediately and take him off, and then all would be well.

Now I muſt tell you, Gentlemen, That what he ſays, That bare Words are not Treaſon, is very true in ſome caſes: For Looſe Words ſpoken, without relation to any Act or Deſign, are not Treaſon, or an Overt Act; but Arguments, and Words of Perſwaſion, to engage in ſuch a Deſign or Reſolution, and directing or propoſing the beſt way for effecting it, are Overt Acts of High Treaſon, as much as if two agree together to Kill the King, tho' the Agreement be Verbal only, and not reduced to Writing: Likewiſe, Conſulting together for ſuch a Purpoſe, is an Overt Act of Treaſon. For it is the imagination, the Compaſſing and Deſigning the Death of the King, that is the Treaſon. For the Law is very careful of the Perſon of the King, and hath fully provided for his Safety; and this Treaſon is the firſt Species mention'd in the Statute. But there is no way of diſcovering thoſe Compaſſings or Imaginations, in order to puniſh a Traytor, but by ſome External Act, that may be ſufficient to manifeſt ſuch an Intention and Purpoſe; and that which is a ſufficient Manifeſtation of ſuch a Deſign, is an other Overt-Act. But there have been proved ſeveral Meetings and Conſultations and Propoſals at thoſe meetings, about the Ways and Methods for bringing about the Deſign of Aſſaſſination. And it was never yet doubted, but to Meet and Conſult how to Kill the King, was an Overt-Act of High Treaſon. Beſides, Mr. *Charnock*'s endeavouring to engage *Berthram* in this Enterprize, and the Argument he uſed to perſwade him to it, That it was a means to Reſtore the late King, and telling him it would anſwer his Expectation, is another Overt Act. And therefore, how far Mr. *Charnock* is Guilty of the Charge in the Indictment, you are to determine when you have well conſider'd the Nature of the Evidence, and what Anſwer Mr. *Charnock* hath made to it; which ſhall be open'd to you by and by.

Then, Gentlemen, concerning Mr. *King*, who is the next Man, he has theſe Witneſſes againſt him: Captain *Porter* ſays, That he was very frequently at the Meetings and Conſultations, and that he came to him when he and *Knightly* were to view the Ground, and deſir'd to be one of them, and they went together, and did view the Ground; this was ſometime before the 15th of *February*, in the ſame Week.

And you may alſo remember the Evidence given by Mr. *De la Rue*, That Mr. *King* told him, about *November* or *December*, That a Major-General would come from *France*, and that Money was to be advanced; and that after Captain *Porter* and Mr. *King* told him, that the Major General was come. On *Friday* the 7th of *February*, *King* ſaid he was to go out of Town with *Knightly* and *Durant*, to know whether the King went to *Richmond* or *Hounſlow*. Being inform'd the King had a deſign to go to *Hounſlow*; and being return'd, on the *Sunday* following, Mr. *King* did ſay they had found out the rareſt Place, and the fitteſt that could be for that purpoſe, within a quarter of a Mile of the King's Houſe at *Richmond*; and that there was to be an Ambuſcade, and asked the Witneſs whether he would be one in the Ambuſcade; but he liked it not, but had rather attack the Guards. He had been at the *Dog Tavern* with Mr. *King*, and diſcourſing about this Undertaking, Mr. *King* the Priſoner had told this Witneſs, that ſeveral of the Guards were come from *France*, and that ſeveral Conferences were had about taking off the King; and he did not approve of Mr. *Charnock*, in regard he did not talk like a Soldier, and was for an eaſie Poſt without Danger; and as for Capt. *Porter*,

Porter, he had another Objection againſt him, He had as much Fat in his Brains as he had in his Body; and ſo the one wanted Skill, and the other Wit. But ſtill Mr. *King* owned his being concerned in the carrying on of this Deſign of Aſſaſſination; for after the Deſign of the Ambuſcade was diſapproved of, and agreed that the Guards ſhould be Attack'd, and the King in his Coach, at *Turnham-Green*; he, by Diſcourſe with *De la Rue*, expreſſes his Conſent to it: Beſides, he told *Pendergras*, who was to be one, and to have *Porter*'s Gun to ſhoot the King, he hoped *Pendergras* would not be afraid to break the Glaſs Windows.

Mr. *Keys* ſtands upon it, for his part, that he was only a Servant to Captain *Porter*, and if he had done any thing amiſs, it was no more than what his Maſter bid him do; and that he knew of no Deſign; and that it was a hard thing that he ſhould be troubled in this Matter; for if a Maſter ſend his Servant to buy Horſes or Arms, if he does not know how they are to be imployed, afterwards it doth appear they are to be imployed in Aſſaſſinating the King, that the Servant ſhould be puniſhed for obeying his Maſter. But the Queſtion is, Whether *Keys* knew what the Deſign was, Captain *Porter* ſays he did know when he hired the Horſes, for what purpoſe they were to be uſed. And he ſays further, That he was with them at many of the Conſults at the *Globe Tavern* and other Places, where he did Eat and Drink with them, and was privy to the Deſign, and concerned in it.

Then Gentlemen, by the other Evidence it is proved, that he was in Company ſeveral times when the Deſign was diſcourſed of, and that he was uſed as a Companion to Capt. *Porter*, and uſed to ſit and Eat and Drink with him and the reſt of them at the ſame Table; and when they drank to the Reſtoration of the late King, and to the Squeezing the Rotten Orange, *Keys* was there, and pledged the Health, which ſhews the Intention of the Man; and this was upon *Saturday* the 22th. And when News was brought that the Deſign was diſappointed by the King's not going abroad that day, he went out to get intelligence, and brought in word that the Guards were come home, and that all their Horſes were in a Foam, and the King's Coaches returned to the *Mews*; all which is Evidence he knew of the Deſign and conſented to it. So that I muſt leave it to you upon the whole, though there be a great deal more Evidence than I have mentioned, you are the Judges how far it amounts to prove them guilty.

But then Gentlemen, as to what they ſay, That the Witneſſes do Teſtifie by Hearſay, that's not Evidence; but what they know themſelves, or heard from the Priſoners; and ſo Mr. *Charnocke* inſiſts upon it, that what Mr. *De le Rue* ſays againſt him, is moſtly what Captain *Porter* told him, and therefore cannot make a proof by two: It is true, and therefore I did omit repeating a great part of what *De la Rue* ſaid, becauſe as to him it was for the moſt part Hearſay: But whatſoever Evidence has been given of any Fact done within the Witneſſes own Knowledge, or of any Conſult or Diſcourſe of the Priſoners themſelves, that you are to take notice of as good Evidence, and conſider of it.

But then there is another thing that is objected againſt the Evidence, and that is, as to the Fairneſs and Credibility of it, becauſe the Witneſſes, eſpecially Mr. *Porter*, by their own acknowledgment, are involved in the ſame Crime, and therefore cannot be good Witneſſes againſt others. Now as to that Objection, I muſt tell you firſt, that Priſoners under thoſe Circumſtances are good legal Witneſſes, but their Credits, as in all other caſes, are lett to your Conſideration. But Secondly, as to the weight of this Objection againſt their Credit, you may Conſider that Traiterous Conſpiracies are Deeds of Darkneſs as well as wickedneſs, the Diſcovery where of can properly come only from the Conſpirators themſelves; ſuch Evidence has always been allowed as good Proof in all Ages; and they are the moſt proper Witneſſes, for otherwiſe 'tis hardly poſſible, if not altogether impoſſible, to have a full Proof of ſuch ſecret Contrivances; ſuch Diſcoveries are to be encouraged in all Governments, without which there can be no Safety: And though Men have been guilty of ſuch hainous Offences, in being Partakers or Promoters in ſuch Deſigns, yet if they come in and Repent, and give Teſtimonies thereof by Diſcovering

vering the Truth, great Credit ought to be given to them, for ſuch Evidence was ever accounted good. Beſides, as to two of them, *De la Rue* and *Pendergraſs*, which were the firſt that diſcovered, before they were apprehended, or ſuſpected themſelves to be in danger, and therefore do not Swear to ſave their own Lives, but reſolved upon it to ſave the Life of the King. And Mr. *Pendergraſs* had not any deſign to be an Evidence, who, though he diſcover'd it almoſt as early as he knew it, yet refuſed to tell the Names, upon a Principle of Honour, till he had the King's Word that he ſhould not be preſt to come in as a Witneſs; and he tells you himſelf the Reaſon why he refuſed then, and why he comes in now, becauſe Capt. *Porter* was his Friend, to whom he was obliged, and he never intended at firſt to diſcover his Name, nor afterwards to be Evidence againſt him; but upon Capt. *Porter*'s being taken, and diſcovering himſelf and this Witneſs, he thought then he was abſolved from all that Obligation, and therefore reſolved to appear as a Witneſs againſt the reſt: And this doth not depend only upon the Credit of *Pendergraſs*, but alſo upon the Teſtimony of my Lord *Portland*, and my Lord *Cutts*, who have given you a full Account of the Manner of it.

And Mr. *De la Rue* tells you, That it was his Deſign at firſt, even a year ago, if the Conſpiracy had ſo far proceeded, as to be ready to be put in Execution, he would have endeavoured to have prevented the Miſchief, by acquainting the King with it; And he gives you an account how he revealed it to Brigadeer *Lewſon*, and to my Lord *Portland*, and after to the King, which is confirmed by my Lord *Portland*; ſo that theſe are Witneſſes beyond all Exception, and if ſuch Evidence as this be not allowed to be good, the Government can never be Secure againſt ſuch Villainous Enterpriſes and Wicked Machinations

Gentlemen This is not Trapanning, for it doth not appear by any Evidence, nor have I heard the Priſoners pretend that theſe Perſons did go about to ſeduce them into the Deſign, but indeed were endeavoured to be ſeduced into it themſelves; and though they kept them Company afterwards, yet it was only with a purpoſe to acquaint themſelves with the real Intentions of theſe Wicked Men, which is Lawful and Juſt in order to the making a full Diſcovery of their ſo Dangerous a Villany; and therefore they ought to recieve all Countenance for doing ſo great a Service to the Government, without undergoing the Imputation of being Trapanners.

Gentlemen, There is no more occurs to me at preſent, that is material to be obſerved or taken notice of, I leave it to you, you heard what the Witneſſes ſay againſt the Priſoners, you have heard what the Priſoners have ſaid for themſelves, you are the Judges of this Fact; If you are not ſatisfied that here has been ſufficient Evidence given to prove them Guilty, you will acquit them; But if you are ſatisfied that upon the Evidence and all the Circumſtances of this Caſe, that they are Guilty, I ſuppoſe you will diſcharge your Conſciences, and give your Verdict accordingly.

Then the Jury withdrew to conſider of the Evidence, and in leſs than half an hour returned, and found all the three Priſoners Guilty of the High Treaſon for which they were Indicted, and the Court Adjourned till ſix a Clock that Evening.

Poſt Meridiem eodem Die.

ABout Seven a Clock the Lord Mayor and the Common Serjeant, with as many of the Court as would make a *Quorum*, came upon the Bench, and by Proclamation in uſual form, the Court was reſumed, and the Priſoners called to the Bar to their Judgment.

Cl. of Arraignments. Robert Chernock, hold up thy Hand (*which he did*) You ſtand Convicted of High-Treaſon for Conſpiring the Death of our Soveraign Lord the King by Aſſaſſination. What can you ſay for your ſelf why the Court ſhould not give Judgment upon you to die according to the Law?

The Jaylor firſt made him to Kneel; and then, when he aroſe up, he ſpoke as follows.

Chernock. Sir, I have a great deal to ſay, if I knew when was the proper time to apply my ſelf to the ſaying what I have to ſay.

Mr. Com. Serj. You are now called to, to know what you have to ſay. *Chern.*

Chern. Sir, I would put this Queſtion, becauſe I am ignorant in Forms of Law, Whether be practicable for me to ſay any thing before Judgment, or not? For I have no Pardon t plead, to hinder the Judgment; and therefore I would know if it be practicable to ſay any thi before Judgment?

Mr. C. Serj. Yes Sir, it muſt be before Judgment; becauſe what you are called to, and ma now, is what you have to ſay in Arreſt of Judgment.

Chernock. I have many things to ſay as to Obſervations I made out of the Indictment, an upon my Tryal, if this be my time to offer them.

Mr. C. Serj. Yes Sir, it is your only time.

Chern. Then, Sir, I think the Fact is ill layed: We are Indicted for High-Treaſon, in Conſp ring the Death of the King, and no Overt-Act is proved againſt me; I ſpeak for my ſelf, I ſup poſe theſe Gentlemen will ſpeak for themſelves.

Mr. C. Serj. At preſent you are the only perſon that is asked the Queſtion; therefore pra go on, and ſay what you have to ſay in Arreſt of Judgment. You ſay the Indictment, is ill lay ed, wherein is it ſo?

Chernock. I do find fault with the Indictment, becauſe it is layed for Aſſaſſinating the King; an all that is proved againſt me, was, That I was in Company where ſuch a thing was diſcourſe of. Now I am adviſed, and my own Reaſon tells me, that being in the Company is no proof o my giving my Conſent to the Thing; and without my Conſenting, there can be no Overt A to make me Guilty of the Treaſon: It is ſaid *that I and my Accomplices*, tho' there are non named but us three, *did meet together and conſult of this matter, and that we bought and pro vided Horſes and Arms*: which I take to be the only Overt-Act: And of all theſe things there is not one title proved; and therefore, with ſubmiſſion to the Court, the Indictment i naught in that reſpect. And this I think I may ſpeak, not only for my own ſake, but for th Take of theſe Gentlemen that ſtand by me; if there be nothing proved againſt us of an Overt Act, as layed in the Indictment, we ought not to be condemned.

Mr. C. Serj. Look you, Mr *Chernock*, you move nothing againſt the Indictments, but onl run into the Proof, that matter is quite at an end, and we cannot enter into any Debate abou it; you have had a fair and a legal Tryal, and upon that Tryal the Jury has found you Guilty.

Chernock. I have not had a fair and equal Tryal, Sir

Mr. C. Serj. Yes, you have had both a fair and a legal, and an equal Tryal.

Chernock. If you pleaſe to leave out the word *legal*, becauſe it perhaps may be according t the ſtrict Forms of Law: But *I* ſay it was not a fair and an equal Tryal, becauſe in the laſt Act of Parliament, which was made for Regulating Tryals in Caſes of Treaſon, the Equity and Rea ſonableneſs of a Priſoner, having that which was denied me; that is, a Copy of the Indictment and Counſel is laid down as the Ground and Reaſon of making the Act; and without that it ha never been made; it is in the Preamble of the Act, which I have looked upon ſince *I* went ou of Court; and tho' as to the time of Commencement, there is a certain day prefix'd, yet th Equity of the Act is always the ſame, and that Equity *I* take my ſelf to be Entitled unto; an therefore being denied the benefit of it, *I* think *I* had not an equal and a fair Tryal.

Mr. C. Serj. *Sir, you have very unreaſonably objected this matter of this Act of Parliament at your Arraignment, and upon your Tryal and now; but your Objection is of no moment or va lidity in the World, for the Act is to Commence in futuro, and you are Tryed according to the Courſe of Common Law before that Act can take place; and it is the Common Law only that this Court can proceed by, and you be tryed by.*

Chern. Sir *I* inſiſt upon the Law it ſelf, but only upon the Equality of it, and the Reaſon ableneſs of the Thing.

Mr. C. Serj. *Courts of Juſtice are to go according to Rules of Law, and that is Equal when it is according to theſe Rules. I ſay again, Sir, you have had a fair, a legal and an equal Tryal, and have been Treated with all the candor and temper that I believe was ever ſhown to any perſons in your condition.*

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Chernock. I had not Councel allowed me to assist me.

Mr. C. Serj. *The Law allows it you not; if it had, you should have had it.*

Chernock. Then my Councel were ignorant People to instruct and advise me, that by the Equity of this Act I ought to have it.

Mr. C. Serj. It was never practicable before, nor can be till the time that this Act takes place.

Chernock. Sir, I cannot argue with the Court in Matters of Law; but as to the Evidence, I say it did not come up to the Indictment.

Mr. C. Serj. If you have any thing to except against the Indictment, that is very proper for you to do, and if you will propose it we will hear you.

Chernock. Sir, I find fault with the *Indictment* in several particulars, all the Facts are laid in the Parish of St. *Clement Danes*, and there is not one Fact proved to be done there.

Mr. C. Serj. It is not material that the Facts should be proved to be done in the particular Parish laid in the *Indictment*; it is sufficient, if they be proved to be done in the County.

Chern. There is not one Fact proved to be done in that Parish.

Mr. C. Serj. All that is against the Evidence, which we cannot at all take notice of after the Verdict.

Chernock. I insisted upon several things whereby it was impossible that the Evidence could be true, and mentioned several things wherein the *Indictment* was erronious, and the *Evidence* not consistent with it, or at least of such Validity as to affect me, all which things if I might have had Councel to argue for me in point of Law, (and *I* look upon it as a very great hardship that it was denied me) as likewise that my Lord Chief Justice overruled what *I* offered about Trappanners, as I take these Witnesses to be, out of Sir *Robert Atkins*'s Book, and what *I* quoted out of my Lord *Hales*'s Pleas of the Crown, and *Cocks* Institutes.

Mr. C. Serj. Mr. *Chern.* If you please to offer any point of Law to the Court to stop Judgment we are ready to hear it; but you ought not to Reflect upon the Court.

Chernock. Where a Man is dying sure he may have leave to take notice of what hardships he has lain under.

Mr. C Serj. Pray Sir hear me; No Men that ever stood in your place have had more Indulgence and Favour shew'd them, nor *I* believe so much neither. Those of us that are here and were at your Tryal, do think you do very much amiss to make any Reflection upon the Court after you were so fairly dealt with. *If* you have any thing that is material to offer in Arrest of Judgment pray let us hear it: But we must overrule all Discourses of this nature, it is a vain sort of Discourse, and will be of no use or service to you at all.

Chernock. Truly *I* know not what it is possible for me to urge which you will think to be material. *If I* cannot urge false Latine and Inconsistencies there have been heretofore Arrests of Judgment, and that must sure have been upon some Error or other.

Mr. C. Serj. It is true, but you assign none; you abound in words, but will not offer any thing that is fit for you to offer.

Chern. Sir, *I* assign this particularly as an Error, and if it be not *I* cannot tell what is; *I* stand upon my last Legs, and stand here for my Life, and ought to be allowed all legal advantages. One particular thing is this: Whether the Scene of the Fact being laid to be at the Parish of St. *Clement Danes* there ought not to be proof that such Facts were done there; and if so, Whether it be not an Error, that there was no proof of any one Fact done there? And then the next thing is, we are Charged to have bought Horses and Arms in the *Indictment*, and there was no proof of any Horses or Arms bought, *I* am sure as to me there was not.

Mr. C. Serj. I told you before all this is to no purpose, you enter into the Evidence, which is matter of Fact which is all over, and we cannot enter into any consideration of it, therefore pray do not spend our time, but if you have any thing that is a Objection to the Frame of the Indictment let us hear it.

Chernock. Then I think that the *Indictment* is uncertain; it says, *quadraginta hominum equestres*

equeſtres aut circiter de ipſis Roberto Chernock, Edwardo King, & Thoma Keys; this is either not true or it is nonſence; for if there be forty Horſemen, or thereabouts, of *Robert Chern. Edw. King*, and *Thomas Keys*, that cannot be true, for they can't make forty; and if you take in the *aliis proditoribus ignotis* that will make it uncertain, and that uncertainty will make the *Indictment* void.

Mr. C. Serj. *I* thought my Lord Chief Juſtice had ſatisfied you as to that Objection, you repeat but part of the Sentence; it is ſaid, *de ipſis* Roberto Chernock & *prædict aliis proditoribus ignot. ac aliis*, that is certain enough, *I* thought we ſhould have heard no more of that frivolous Objection, but you had been ſatisfied with the Judges Anſwer to it.

Chern. I am ſatisfied in point of Fact that they conſtrued it ſo; but theſe are the words of the *Indictment* as they were read to me.

Mr. C. Serj. You ſhall have the words Read to you again. Read them.

Cl: of Arraignment. *Quod quadraginta homines equeſtres aut eo circiter de ipſis* Roberto Chernock, Edwardo King, & Thoma Keys, & *prædictis aliis proditoribus ignotis ac aliis.*

Mr. C. *Serj.* You took but part of the Sentence, or elſe you could never have made that Objection.

Chern. Then Sir, here is *tunc & ibidem*, what is that?

Mr. C. *Serj* You can eaſily tell that ſure; it is *then and there.*

Chern. What, *ibidem*? what word is that?

Mr. C. *Serj.* It is the beſt word that could be uſed, what word would you have had.

Chern. Tunc & ibi is *then and there.*

Mr. C. *Serj.* No, *ibidem* is a better word, and is always uſed in our pleadings at Law.

Chern. Then I have only this in general to ſay; Whether it be poſſible for a Man that is ignorant in Forms of Law to defend himſelf without Councel? I muſt deſire Coucel to look into the *Indictment* and to aſſiſt me.

Mr. C. *Serj.* That is what we cannot allow by Law unleſs you offer ſomething that may be ſuch an Objection as the Court ſhall think fit to have argued by Councel.

Chern. But how ſhall *I* that am ignorant in the Law know how to offer you that which you will think fit to hear Councel to?

Mr. C. Serj You may offer any thing that you think is an Exception, and the Court will conſider of it, for I think it is my Duty, and every Mans that has the honour to ſit here by the King's Commiſſion, to lay as much weight upon any Objection that a Priſoner does offer as it will bear; but if nothing be offer'd that is of the leaſt weight or moment, we being to do our Duty equally between the King and the Priſoner, we cannot allow Councel when there is nothing before us to allow it upon.

Chern. You will not, it ſeems, let me have ſuch aſſiſtance as I may offer ſomething material.

Mr. C. Serj. You know well enough we cannot do it, pray do not ſpend our time to no purpoſe.

Chern. May Sir, if you be in haſte, I will not trouble you any longer.

Mr. C. Serj. You have no reaſon to ſay we are in haſt; I am ſure you have had all the Indulgence and Patience that could be; you are at liberty to offer any thing that you can, but to ſpend the time of the Court in bare Words is not reaſonable.

Chern. The Law was never my practice, Sir, nor ſtudy: I perceive whatſoever I offer ſignifies nothing; therefore I beg your pardon for the trouble I have given you; I ſhall not attempt to offer any thing further.

Mr. C. Serj. You may offer what you will, we will hear you.

Chern. Sir, *I* perceive whatſoever *I* ſay is unacceptable, and ſo *I* had as good let it alone.

Mr. C. Serj. You ſhall be heard to ſay whatever you think is for your intereſt to ſay.

Chern. *I* thought theſe things were for my intereſt to offer; but *I* ſee it is to no purpoſe; therefore *I* have no more to ſay, *I* have done.

Mr. C. Serj. You may offer what you will, and you ſhall be heard with all the patience and candor imaginable.

Chern. I see it is impossible for me to offer any thing that the Court will think material; therefore it is in vain for me to speak, and trouble my self and the Court with what will be of no use to me.

Cl. of Arraignments. Edward King, hold up thy Hand, (*which he did*) You stand Convicted of the same High-Treason; What can you say for your self why the Court should not give Judgment upon you to die according to the Law?

Then he was made to Kneel, and rise up again.

King. What Mr. *Charnock* has said, all of it I do imagine to be material; and since he is not to be heard, I have done, I can say no more.

Cl. of Arraignments. Thomas Keys, hold up your Hand; you are in the same Case with the Prisoner that went last before — What can you say for your self why the Court should not give Judgment upon you to die according to the Law?

He was made to Kneel and rise again.

Keys. Sir, I have had no Councel, nor no Assistance, since I have been in Prison.

Mr. C. Serj. That you alledged upon your Tryal, and you were then told you might have had Councel if you had thought fit, for you had an Order for it, and you come too late to offer any thing of that nature now. But the Question that is now asked you, is what you have to say for your self why Judgment should not pass upon you?

Keys. I was only a Servant.

Mr. C. Serj. You have been told that will not excuse a Man in such a Case.

Keys. I cannot help it, Sir; I have done; I hope you will take care of my Wife and Children when I am gone.

Then Proclamation was made for silence, whilst Judgment was in giving; which the Common Serjeant, sitting down upon the Bench pronounced thus:

Mr. C. Serj. Robert Charnock, Edward King, and *Thomas Keys*, the Prisoners at the Bar; You have been severally indicted for High-Treason, you have pleaded Not Guilty, and put your selves, for your Tryal, upon the Country, which Country have found you Guilty; You have had the benefit of a fair, lawful, indifferent and equal Tryal, according to the Laws of this Land; those very Laws which you are charged in this Indictment to have conspired to subvert: It is a Crime of the highest nature that the Law knows. You are Gentlemen of liberal Education, and I hope this will bring you to some Reflection, both upon the state of your own Case, and the blackness of your Offence in the time you have to live, which I fear is but very short; It is certainly the horridest Crime that any Person can be guilty of, the Murthering of a Prince in a cold Blood, and involving your Country in Slaughter and Confusion. I have nothing more to do, but to pronounce the Judgment that the Law has provided for such Offenders, and which the Court doth Award;

That you go from hence to the Place from whence you came, and that from thence you be drawn upon a Hurdle to the Place of Execution, where you are severally to be Hang'd by the Neck, and cut down alive; your Bowell and Privy Members to be cut from your Bodies, and to be Burnt in your view; your Heads to be cut off, your Bodies respectively to be divided into Four Parts, which Heads and Quarters are to be at the King's disposal, and God have Mercy upon your Souls.

Chern. Sir, I desire we may have the favour to have our Friends and Relations come to us while we are in Prison.

Mr. C. Serj. You shall have all the liberty of your Friends and Relations coming to you, that you can reasonably desire.

Chern. And I hope we shall have no hard Usage in Prison.

Mr. C. Serj. No, God forbid you should; you may assure your self you shall have none.

Charnock, King, and *Keys*, were Executed according to the Sentence, on Friday the 18th of *March*, 1695 at *Tyburn*.

Chern. I see it is impossible for me to offer any thing that the Court will think material; therefore it is in vain for me to speak, and trouble my self and the Court with what will be of no use to me.

Cl. of Arraignments. Edward King, hold up thy Hand, (*which he did*) You stand Convicted of the same High-Treason; What can you say for your self why the Court should not give Judgment upon you to die according to the Law?

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Mr. C. Serj. That you alledged upon your Tryal, and you were then told you might have had Councel if you had thought fit, for you had an Order for it, and you come too late to offer any thing of that nature now. But the Question that is now asked you, is what you have to say for your self why Judgment should not pass upon you?

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Chern. Sir, I desire we may have the favour to have our Friends and Relations come to us while we are in Prison.

Mr. C. Serj. You shall have all the liberty of your Friends and Relations coming to you, that you can reasonably desire.

Chern. And I hope we shall have no hard Usage in Prison.

Mr. C. Serj. No, God forbid you should; you may assure your self you shall have none.

And *Charnock, King*, and *Keys*, were Executed according to the Sentence, on *Wednesday* the 13th of *March*, 1692 at *Tyburn*.

FINIS